

Supreme Court, U. S.

FILED

AUG 9 1976

MICHAEL RODAK, JR., CLERK

IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1975

No. 75-562

ROSEBUD SIOUX TRIBE,

Petitioner,

v.

HONORABLE RICHARD KNEIP, *et al.*,

Respondents.

ON WRIT OF CERTIORARI TO
THE UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

APPENDIX
[Volume III – Pages 945-1412]

PETITION FOR CERTIORARI FILED OCTOBER 11, 1975
CERTIORARI GRANTED MAY 24, 1976

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bud Indians for the cession of their surplus unallotted lands in Tripp County, South Dakota, which I am informally advised has been approved and transmitted to him.

The provisions of the bill under consideration conform mainly to the suggestions in the approved instructions to the Inspector, but fails to make provision for the sale and disposal of a strip of land in Lyman County, lying east of the north part of Tripp County as laid down on the map issued by the General Land Office in 1901, and being part of townships 101, 102, 103, and 104 north, range 73 west of the 5th principal meridian, south of White River, which strip should be disposed of with the lands in Tripp County. I respectfully suggest, therefore, that several amendments be made to the bill; to wit:

1. By inserting between the word "within" and the word "the" in line 6, page one, the words "the strip in Lyman County and"; also between the word "County" and the syllable "ex" in line 6, said page, the words "as laid down on the map issued by the General Land Office in nineteen hundred and one."

2. By inserting between the word "reservation" and the word "and" in line 14, page 2, the words "including said strip and county".

3. By inserting between the word "is" and the letter "a" in line 16, page 2, the words "or was in case of death".

4. By inserting between the word "Tripp" and the word "are" in line 21, page 5, the words "and said strip"; also by inserting between the word "County" and the word "to" in line 24, page 5, the words "and said strip".

I respectfully recommend that the amendments proposed be laid before the Chairman of the House

Committee on Indian Affairs for the consideration of the Committee, if they meet with your approval.

It is suggested that his special attention be invited to the fact that Inspector McLaughlin is now in the field with instructions to negotiate with the Rosebud Indians for the cession of their surplus unallotted lands in Tripp County and the strip above described; that a report is expected from him in a reasonable time, and that when received it will be laid before the Senate and House Committees on Indian Affairs for their consideration, accompanied by such recommendations as may seem proper in the premises.

It should be said in this connection that I reported on the 15th instant on S. 6618, 59th Congress, 2nd Session, to authorize the sale of a part of Rosebud Indian Reservation in South Dakota, and for other purposes, and suggested amendments thereto conforming as far as possible to the suggestions contained in the approved instructions to Inspector McLaughlin.

I said that, in my judgment, it was a mistake for Congress to direct the restoration of the surplus lands of an Indian reservation to the public domain without first referring the question to the Indians; that they were apt to become dissatisfied and resentful, and that this greatly retarded the Government's efforts for their advancement. I also suggested that if action on Senate bill 6618 could be postponed until the receipt of the Inspector's report, it might simplify matters to some extent. I now make a similar suggestion respecting the bill under consideration.

The letter of the Chairman and the bill are returned herewith. A copy of this report is enclosed.

Very respectfully,

/s/F. E. Leupp
F. E. Leupp
Commissioner.

JHH.Ph.

DEPARTMENT OF THE INTERIOR
WASHINGTON

December 27th, 1906

The Chairman of the
Committee on Indian Affairs,
House of Representatives.

Sir:

I am in receipt of your letter of the 11th instant, enclosing copy of H. R. 20527, being a bill "To authorize the sale and disposition of surplus or unallotted lands in Tripp County, in the Rosebud Indian Reservation, in the State of South Dakota and making appropriation and provision to carry the same into effect", and requesting to be furnished with a report for the use of your Committee.

In reply I enclose herewith a copy of a letter from the Commissioner of Indian Affairs dated the 19th instant, stating that on the 5th instant he prepared a letter of instructions for the guidance of Inspector McLaughlin in conducting negotiations with the Rosebud Indians for the cession of their surplus unallotted lands in Tripp County, S. D.; that the provisions of the bill under consideration conform mainly to the sugges-

tions in the approved instructions to the Inspector and suggesting several amendments to the bill submitted and recommending that these amendments be laid before your Committee for consideration.

The Commissioner in his letter makes other suggestions and recommendations, all of which have my approval.

Very respectfully,

/s/E. A. Hitchcock

Secretary.

12006, Ind. Div. 1906;
12264, Ind. Div. 1906
(1 enclosure.)
C.D.—w.o.

[#26]

(Legislative history of S. 6618—a bill for sale of surplus lands in the Rosebud Reservation.)

[41 Cong. Rec. 24 (1906-1907)]

Rosebud Reservation: bills for sale of surplus lands in (see bills S. 6618; H. R. 20527, 24987, 25608).

[41 Cong. Rec. 27 (1906-1907)]

S. 6618—

To authorize the sale of a portion of the Rosebud Indian Reservation in South Dakota, and for other purposes.

Mr. Gamble: Committee on Indian Affairs 50.—Reported back with amendment (S. Report 6831) 3207.—Passed over 3323.—Indefinitely postponed (see H. R. 24987) 4105.

[41 Cong. Rec. 50-51 (1906)]

Mr. GAMBLE introduced a bill (S. 6618) to authorize the sale of a portion of the Rosebud Indian Reservation in South Dakota, and for other purposes; which was read twice by its title, and referred to the Committee on Indian Affairs.

[41 Cong. Rec. 3207 (1907)]

ROSEBUD INDIAN RESERVATION LANDS.

Mr. GAMBLE, from the Committee on Indian Affairs, to whom was referred the bill (S. 6618) to authorize the sale of a portion of the Rosebud Indian Reservation, in South Dakota, and for other purposes, reported it with an amendment, and submitted a report thereon.

[41 Cong. Rec. 3323 (1907)]

ROSEBUD INDIAN RESERVATION, S. DAK.

The bill (H. R. 24987) to authorize the sale and disposition of a portion of the surplus or unallotted lands in the Rosebud Indian Reservation, in the State of South Dakota, and making appropriation and provision to carry the same into effect, was considered as in Committee of the Whole.

The bill had been reported from the Committee on Indian Affairs with an amendment, to insert at the end of section 7 the following:

And there is hereby appropriated the further sum of \$15,000, or so much thereof as may be necessary, for the purpose of making the allotments provided for herein.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time, and passed.

[41 Cong. Rec. 4105 (1907)]

ROSEBUD INDIAN RESERVATION.

The bill (S. 6618) to authorize the sale of a portion of the Rosebud Indian Reservation in South Dakota, and for other purposes, was announced as next in order.

Mr. GAMBLE. A similar bill has passed both Houses, and I move the indefinite postponement of this bill.

The motion was agreed to.

[#26A]

(Senate report to accompany S. 6618)

[S. Rep. No. 6831, 59th Cong. 2d Sess. 1-5, 1907]

SALE AND DISPOSITION OF CERTAIN
LANDS IN ROSEBUD INDIAN RESERVATION
IN SOUTH DAKOTA.

February 18, 1907.—Ordered to be printed.

Mr. Gamble, from the Committee on Indian Affairs,
submitted the following

REPORT.

[To accompany S. 6618.]

The Committee on Indian Affairs, to whom was referred the bill (S. 6618) to authorize the sale of a portion of the Rosebud Indian Reservation in South Dakota, and for other purposes, having had the same under consideration, submit the following report:

Your committee respectfully submits the following as a substitute for S. 6618, and recommends that the same do pass:

AN ACT To ratify an agreement with the Indians residing on the Rosebud Indian Reservation, in the State of South Dakota, and to make appropriations for carrying the same into effect.

Whereas James McLaughlin, United States Indian inspector, did, on the twenty-first day of January,

nineteen hundred and seven, conclude an agreement with the male adult Indians of the Rosebud Reservation, in the State of South Dakota, which said agreement is in words and figures as follows:

This agreement, made and entered into on the twenty-first day of January, nineteen hundred and seven, by and between James McLaughlin, United States Indian inspector on the part of the United States, and the Sioux tribe of Indians belonging on the Rosebud Reservation, in the State of South Dakota, witnesseth:

Article 1. The said Indians belonging on the Rosebud Reservation, South Dakota, for the consideration herein named and in the manner hereinafter provided, do hereby cede, grant, and relinquish to the United States all claim, right, title, and interest in and to all that part of the Rosebud Indian Reservation lying south of Big White River and east of range twenty-five west, of the sixth principal meridian in South Dakota, except such portions thereof as have been, or may hereafter be, allotted to Indians: *Provided*, That sections sixteen and thirty-six of the lands in each township shall not be disposed of, but shall be reserved for the use of the common schools of the State of South Dakota, and paid for by the United States at two dollars and fifty cents per acre.

Art. II. In consideration of the lands ceded and relinquished by Article I of this agreement, the United States stipulates and agrees to dispose of the same, as hereinafter provided, under the provisions of the homestead and townsite laws, or by sale for cash, and shall be opened to settlement and entry by proclamation of the President, which proclamation shall prescribe the manner in which the lands may be settled upon, occupied, and entered by persons entitled to make entry thereof, and no person shall be permitted to

settle upon, occupy, or enter upon any of said lands, except as prescribed in such proclamation: *Provided*, That prior to said proclamation the Secretary of the Interior, in his discretion, may permit Indians who have an allotment within the Rosebud Reservation to relinquish such allotment and to receive in lieu thereof an allotment anywhere within said reservation, and he shall also allot one hundred and sixty (160) acres of land to each child of Indian parentage, whose father or mother is or was, in case of death, a duly enrolled member of the Sioux tribe of Indians belonging on the Rosebud Reservation, who is living at the date of the approval of the act ratifying this agreement and who has not heretofore received an allotment, and such allotments shall be made prior to the lands being opened to settlement and entry, upon any unallotted land within said reservation, including the tract ceded by Article I of this agreement: *And provided further*, That allotments shall be made to children of the Indians, parties hereto, who have not previously received an allotment, so long as the said Indians are possessed of any unallotted reservation lands.

Art. III. It is agreed that the price of said lands entered as homesteads shall be as follows: Upon all land entered or filed upon within three months after the same shall be opened to settlement and entry, six dollars per acre, and upon all land entered or filed upon after the expiration of three months and within six months after the same shall have been opened to settlement and entry, four dollars and fifty cents per acre. After the expiration of six months and within four years after the same shall have been opened to settlement and entry, the price shall be two dollars and fifty cents per acre. That the price shall be paid in accordance with rules and regulations to be prescribed

by the Secretary of the Interior upon the following terms: One-fifth of the purchase price to be paid in cash at the time of entry, and the balance in five annual installments, to be paid in one, two, three, four, and five years, respectively, from and after the date of entry. That in case any entryman fails to make the annual payments, or any of them, promptly when due, all rights in and to the land covered by his or her entry shall cease, and any payments theretofore made shall be forfeited and the entry canceled, and the lands shall be reoffered for sale and entry under the provisions of the homestead law at the same price that it was first entered. That the lands disposed of under the town-site law shall be paid for at the price provided by law. That all lands remaining undisposed of at the expiration of four years from the opening of the said lands to entry may be, in the discretion of the Secretary of the Interior, sold to the highest bidder for cash, without regard to the above minimum limit of price.

Art. IV. It is further agreed that of the amount to be derived from the sale of said lands, as stipulated in Article III of this agreement, the sum of one million dollars (\$1,000,000) shall, from the first moneys received from the sale of these lands, be devoted to the creation of a fund of one million dollars, which shall be deposited in the United States Treasury to the credit of the Indians, parties hereto, and which shall draw five per cent interest for a period of ten years from the date of such deposit, which interest shall be paid to the beneficiaries per capita in cash annually. That at the expiration of ten years after said fund of one million dollars shall have been deposited in the United States Treasury to the credit of the Rosebud Indians, said fund shall be equally distributed among the beneficiaries, parties hereto: *Provided*, That the proceeds

derived from the sale of said lands, after the one million dollars of the ten years' interest-bearing fund herein provided for has been created, shall be expended for the benefit of the Rosebud Indians, in the discretion of the Secretary of the Interior, upon an application by a majority petition of the Indians, parties hereto, through and upon the recommendation of the Indian agent in charge of the Rosebud Indian Reservation.

Art. V. It is further agreed that sections sixteen and thirty-six of the lands in each township of the lands hereby relinquished shall not be subject to entry, but shall be reserved for the use of the common schools of the State of South Dakota, and paid for by the United States at two dollars and fifty cents per acre, and in case any of the said sections, or parts thereof, of the land in the tract hereby relinquished are lost to the State of South Dakota by reason of allotment thereof to Indians or otherwise the governor of said State, with the approval of the Secretary of the Interior, may locate other lands of similar character and equal value not occupied, and not exceeding two sections in any one township, which shall be paid for by the United States as herein provided in quantity equal to the loss, and such selections shall be made prior to the opening of such lands to settlement.

Art VI. It is the understanding that nothing in this agreement contained shall in any manner bind the United States to purchase any portion of the land herein described, except sections sixteen and thirty-six, or the equivalent, in each township, or to dispose of said land except as provided herein, or to guarantee to find purchasers for said lands or any portion thereof, it being understood that the United States shall act as trustee for said Indians to dispose of said lands and to

expend for said Indians and pay over to them the proceeds received from the sale thereof only as received, as herein provided.

Art. VII. It is understood that nothing in this agreement shall be construed to deprive the said Indians of the Rosebud Reservation, South Dakota, of any benefits to which they are entitled under existing treaties or agreements not inconsistent with the provisions of this agreement.

In witness whereof the said James McLaughlin, U.S. Indian inspector, on the part of the United States, and the male adult Indians belonging on the Rosebud Reservation, South Dakota, have hereunto set their hands and seals at the Rosebud Agency, South Dakota, this twenty-first day of January, A. D. nineteen hundred and seven.

James McLaughlin, [seal.]
U.S. Indian Inspector.

No.	Name	Age.	Seal and Mark thumb im- print.
1	Hollow Horn Bear	55	. . . Seal (x).
	(and 704 others.)		

We, the undersigned, hereby certify that the foregoing agreement was fully explained by us in open council to the Indians of the Rosebud Reservation, South Dakota; that it was fully understood by them before signing, and that the foregoing signatures, though names are similar in some cases, represent different individuals in each instance, as indicated by their respective ages.

Louis Bordeaux,
Louis Roubideau,
Interpreters.

Rosebud Agency, South Dakota, *February 5, 1907.*

We, the undersigned, do hereby certify that we witnessed the signatures of James McLaughlin, United States Indian inspector, and of the 705 Indians of the Rosebud Reservation to the foregoing agreement.

Wm. F. Schmidt,
Issue Clerk.
C. H. Bennett,
Farmer, Cut Meat District.
Ernest Falconer,
Farmer, Black Pipe District.
Frank Robinson,
Farmer, Little White River District.
O. E. Steinbaugh,
Farmer, Butte Creek District.
Teen Fenenga,
Farmer, Big White River District.
Kranth H. Cressman,
Teacher in Charge, Ponca District.
Louis Bordeaux,
Ex-Farmer, Agency District.

Rosebud Agency, South Dakota, *February 5, 1907.*

I certify that the total number of male adult Indians over 18 years of age belonging on the Rosebud Reservation, South Dakota, is 1,368, of whom 705 have signed the foregoing agreement.

Edward B. Kelley,
U.S. Indian Agent.

Rosebud Agency, South Dakota, *February 5, 1907.*

Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the said agreement be, and the same is hereby, accepted, ratified, and confirmed.

Sec. 2. For the purpose of carrying this agreement into effect there is hereby appropriated and set aside in the Treasury of the United States, for payment to said Indians for lands granted to the State of South Dakota, the sum of one hundred and seventy-six thousand dollars, or so much thereof as may be necessary, which shall draw interest as provided in Article V of the agreement. And there is hereby appropriated the further sum of fifteen thousand dollars, or so much thereof as may be necessary, for the purpose of making the allotments provided for herein.

Since the introduction of S. 6618 the foregoing agreement was entered into by James McLaughlin, United States Indian inspector, on the part of the United States, with the Indians of the Rosebud Reservation in South Dakota. The agreement has the approval of the Department, and there is herewith submitted the report of the Secretary of the Interior and the Commissioner of Indian Affairs thereon:

Department of the Interior,
Washington, February 14, 1907.

Sir: By your reference of the 28th ultimo I am in receipt for report of copy of H. R. 24987, being a bill "to authorize the sale and disposition of a portion of the surplus or unallotted lands in the Rosebud Indian Reservation, in the State of South Dakota, and making appropriation and provision to carry the same into effect," and in reply I inclose herewith copy of a letter from the

Commissioner of Indian Affairs, dated the 14th instant, stating that the report on H. R. 24987 has been held pending the receipt of an agreement concluded by Inspector McLaughlin with the Indians of the Rosebud Reservation, which has now been received, and the Commissioner recommends that all that part of the bill after the words "A bill" be stricken out, and that the agreement, as concluded, together with a preamble and enacting clause, etc., be inserted in lieu thereof, which recommendation has the approval of the Department.

Very respectfully,

E. A. Hitchcock,
Secretary.

The Chairman Committee on Indian Affairs. *House of Representatives.*

Department of the Interior,
Office of Indian Affairs,
Washington, February 14, 1907.

Sir: I am in receipt by department reference for consideration and report of a letter from Hon. James S. Sherman, chairman of the Committee on Indian Affairs, House of Representatives, inclosing a copy of H. R. 24987, entitled "A bill to authorize the sale and disposition of a portion of the surplus or unallotted lands in the Rosebud Indian Reservation, in the State of South Dakota, and making appropriation and provision to carry the same into effect," upon which he requests a report.

According to an informal understanding with Hon. Charles H. Burke, the author of the bill, report on the reference was deferred pending the

receipt of the agreement concluded by James McLaughlin, United States Indian inspector, with the Indians of this reservation.

I am now in receipt by your reference of Inspector McLaughlin's report inclosing the agreement concluded by him.

I have considered H. R. 24987, and recommend that all that part of the bill after the words "A bill" be stricken out, and that the agreement as concluded, together with a preamble and enacting clause, with a second section providing for appropriations to carry the agreement into effect, be inserted in lieu thereof.

I have prepared a title for the ratification of the agreement, as follows:

"An act to ratify an agreement with the Indians residing on the Rosebud Indian Reservation, in the State of South Dakota, and to make appropriations for carrying the same into effect."

I inclose herewith a copy of this letter and of the bill H. R. 24987, amended as suggested, and respectfully recommend that, should this action meet with your approval, they be transmitted to the chairman of the committee on Indian Affairs with favorable recommendation.

Very respectfully,

F. E. Leupp,
Commissioner.

The Secretary of the Interior.

[#27]

(Letter of Dec. 15, 1906 to the Secretary of the Interior from Commissioner F. E. Leupp.)

Land 108138 — 1906.

**DEPARTMENT OF THE INTERIOR
OFFICE OF INDIAN AFFAIRS
WASHINGTON**

December 15, 1906.

The Honorable,
The Secretary of the Interior.

Sir:

I have the honor to acknowledge the receipt, by Department reference for consideration and report, of S. 6618, 59th Congress, 2nd Session, to authorize the sale of a part of the Rosebud Indian Reservation in South Dakota, and for other purposes. The bill was referred to you by the Chairman of the Senate Committee on Indian Affairs, with a request for a report thereon for the information of the Committee.

Section one of the bill authorizes and directs the Secretary of the Interior, as thereafter provided, "to sell and dispose of the unallotted lands in that part of the Rosebud Indian Reservation within the limits of Tripp County, South Dakota." It provides that sections 16 and 36 of the lands in each township shall be reserved for the use of the common schools and paid for by the United States at \$1.25 per acre, and grants these sections to the State for such purpose; and it

provides further that any Indians to whom allotments have been made on the tract to be ceded may, in case they desire to do so, before the said lands are offered for sale, relinquish them and select allotments in lieu thereof on the diminished reservation.

Section 2 provides for the appraisal by legal subdivisions of the said lands, excepting sections 16 and 36, and for their disposal under the general provisions of the homestead laws, and for opening them to settlement and entry at not less than their appraised value by proclamation of the President, which shall prescribe the manner in which these lands shall be settled upon, occupied and entered; also, that the price of said lands when entered shall be that fixed by the appraisal or by the President, as thereafter provided for, which shall be paid for in accordance with the rules and regulations to be prescribed by the Secretary on the following terms: One-fifth of the purchase price to be paid in cash at the time of entry, and the balance in five equal annual installments, to be paid in one, two three, four and five years, respectively, from and after the date of entry.

It is provided further in Section 2 that when, in the judgment of the President, no more of the said lands can be disposed of at the appraised price, he may by proclamation, to be repeated at his discretion, sell from time to time the remaining lands, subject to the provisions of the homestead laws or otherwise, as he may deem most advantageous, at such price or prices, in such manner, upon such conditions, with such restrictions, and upon such terms as he may deem best for all the interests concerned.

Section 3 provides that the proceeds arising from the sale and disposal of these lands, exclusive of the customary fees and commissions, shall, after deducting

the amount of the expenses incurred from time to time in connection with the appraisements and sales, be deposited in the Treasury of the United States to the credit of the Indians belonging and having tribal relations on the Rosebud Reservation, and expended for their benefit under the direction of the Secretary.

Section 4 appropriates out of any money in the Treasury not otherwise appropriated, \$65,000, or so much thereof as may be necessary, to pay for the lands granted to the State of South Dakota as provided in the Act, and for the necessary expenses of appraising the land to be sold, with the provision that the money expended in appraising them shall be reimbursable and be deducted from the proceeds received from the sale.

Section 5 relates to sections 16 and 36 of the lands in each township which shall not be subject to entry, but shall be reserved for the use of the common schools, etc.

Section 6 vests the Secretary with full power and authority to make all needful rules and regulations as to the manner of sale, notice thereof, and other matters incident to carrying out the provisions of the act, and with authority to reappraise said lands if deemed necessary from time to time, and to continue making sales thereof in accordance with the provisions of the Act until all the lands shall have been disposed of; and provides that all lands ceded and opened to settlement under the Act, remaining undisposed of at the expiration of five years from the taking effect thereof, shall be sold and disposed of for cash under rules and regulations to be prescribed by the Secretary of the Interior—not more than 640 acres to any one person.

Section 7 provides that the United States shall act as trustee for the said Indians to dispose of the said lands and to pay over and expend the proceeds received from

the sale thereof only as received, and that nothing contained in the Act shall in any manner bind the Government to purchase any part of the lands to be disposed of except sections 16 and 36, or the equivalent, in each township.

In reporting on the bill I have the honor to say that at the request of the First Assistant Secretary of the Interior, I caused to be prepared and submitted to you on the 5th instant, for your consideration and approval, a letter of instructions for the guidance of Inspector McLaughlin in conducting negotiations with the Rosebud Indians for the cession of their surplus unallotted lands in Tripp County, South Dakota, which I am informally advised has been approved and transmitted to him.

He was told that the part of townships 101 and 102 north, range 73 west, and townships 103 and 104 north, range 73 west of the 5th principal meridian, south of White River, in said reservation, which is in Lyman County, should also be considered in connection with the lands embraced in Tripp County; and that the strip of land described lies east of the north part of this (Tripp) county as laid down on the map of the General Land Office issued in 1901, copy of which is enclosed for convenient reference.

As the Office was informed that a large number of Indians had taken allotments in the western and southwestern parts of the reservation on lands which are now and always will be worthless, being nothing but sand hills, I suggested that the Inspector consider the question of giving the Indians who have allotments in the reservation elsewhere than in Tripp County, permission, in the discretion of the Secretary of the Interior, to relinquish them and to take allotments in lieu thereof in some other part of the reservation,

including Tripp County, and as I had learned that the Indians believed that their children now living or born since allotments were made on the reservation, should be given allotments of 160 acres of land, I desired that he give this matter consideration also in connection with the proposed negotiations.

It was suggested also that the ceded lands should be disposed of under the general provisions of the homestead and *town-site* laws of the United States; that the price of the lands to be entered as homesteads should receive careful consideration, and that the following would seem to be fair terms, similar to those in the disposal of the ceded lands in Gregory County:

On all lands entered or filed upon within three months after they shall have been opened for settlement and entry, \$5 per acre, and on all lands entered or filed upon after the expiration of three months and within six months after they shall have been opened for settlement and entry, \$4 per acre; after the expiration of six months from the time when they shall have been opened for settlement and entry, \$2.50 per acre. The lands should be paid for in accordance with rules and regulations to be prescribed by the Secretary on these terms: One-fifth of the purchase price to be paid in cash at the time of entry, and the balance in five equal annual installments to be paid in one, two, three, four and five years, respectively, from and after the date of entry; all land remaining undisposed of at the expiration of four years from the date of opening them to entry to be sold to the highest bidder for cash, at not less than \$2.50 per acre, under rules and regulations to be prescribed by the Secretary; and any lands remaining unsold for seven years after they shall have been opened to entry, to be sold to the highest bidder for cash without regard to said minimum limit of price.

I further suggested that the agreement should provide that the Indians shall have the benefit of whatever can be realized from the sale of lands for town-site purposes, and should authorize the Secretary of the Interior to reserve from the ceded lands such tracts for these purposes as, in his opinion, may be required for the future public interests, and to cause them to be surveyed into lots and blocks and disposed of under such regulations as he may prescribe, in accordance with Section 2381 of the Revised Statutes; the net proceeds derived from the sale of such lands to be credited to the Indians as agreed upon.

I expressed the opinion that it should contain an article providing that the unallotted and unreserved lands, if any, in sections 16 and 36 in the cession, should be reserved for the use of the common schools of South Dakota, and paid for by the United States at the rate of \$2.50 per acre.

I should be pleased to have the provisions of the bill under consideration conform as far as possible to the suggestions contained in the approved instructions to the Inspector.

Accordingly, I respectfully suggest that the following amendments be made to it:

1. By inserting in line 6, page 1, between the word "within" and the word "the", these words: "the strip in Lyman County and"; also between the word "Dakota" and the word "provided", these words: "as laid down on the map issued by the General Land Office in nineteen hundred and one."

2. By striking out in line 10, page 1, the words "one dollar and twenty-five cents" and inserting the words "two dollars and fifty cents" in lieu thereof.

3. By adding the following after the word "reservation" in line 2, page 2: "and provided further, that the

Indians who have allotments in the reservation elsewhere than in Tripp County shall be permitted, in the discretion of the Secretary of the Interior, to relinquish them and take allotments in lieu thereof in some other part of the reservation, including Tripp County and the said strip in Lyman County; and that he shall also allot one hundred and sixty acres of land to each child of Indian parentage whose father or mother is, or was in case of death, a duly enrolled member of the Rosebud tribe of Indians, who is living at the time of the approval of this Act, and who has not heretofore received an allotment."

4. By striking out Section 2 and inserting in lieu thereof the following:

"Sec. 2. That the lands shall be disposed of under the general provisions of *the homestead and town-site laws* of the United States, and shall be opened to settlement and entry by proclamation of the President, which proclamation shall prescribe the manner in which these lands may be settled upon, occupied, and entered by persons entitled to make entry thereof, and no person shall be permitted to settle upon, occupy, or enter any of said lands except as prescribed in such proclamation, until after the expiration of sixty days from the time when the same are opened to settlement and entry; Provided, that the rights of honorably discharged Union soldiers and sailors of the late civil and Spanish wars and the Philippine insurrection, as defined and described in sections twenty-three hundred and four and twenty-three hundred and five of the Revised Statutes, as amended by the Act of March first, nineteen hundred and one, shall not be abridged: Provided further, that the price of said lands entered as homesteads under the provisions of this Act shall be as follows: On all lands entered or filed upon within three

months after the same shall be opened for settlement and entry, five dollars per acre, and on all lands entered or filed upon after the expiration of three months and within six months after the same shall be opened to settlement and entry, four dollars per acre; after the expiration of six months from the time they shall be opened for settlement and entry, the price shall be two dollars and fifty cents per acre. The price shall be paid in accordance with rules and regulations to be prescribed by the Secretary of the Interior, on the following terms: One-fifth of the purchase price to be paid in cash at the time of entry, and the balance in five equal annual installments to be paid in one, two, three, four, and five years, respectively, from and after the date of entry. In case any entryman fails to make the annual payments or any of them when due, all rights in and to the land covered by his entry shall cease, and any payments theretofore made shall be forfeited, and the entry shall be canceled and the lands shall be re-offered for sale and entry under the provisions of the homestead laws: And provided further, that nothing in this Act shall prevent homestead settlers from commuting their entries under section twenty-three hundred and one of the Revised Statutes, by paying for the land entered the price fixed herein, receiving credit for payments previously made. In addition to the price to be paid for the land, the entry man shall pay the same fees and commissions at the time of commutation or final entry as now provided by law where the price of the land is one dollar and twenty-five cents per acre, and when the entryman shall have complied with all the requirements and terms of the homestead law as to settlement and residence, and shall have made all the required payments aforesaid, he shall be entitled to a patent for the

lands entered: And provided further, that all lands remaining undisposed of at the expiration of four years from the opening of the said lands to entry shall be sold to the highest bidder for cash at not less than two dollars and fifty cents per acre, under rules and regulations to be prescribed by the Secretary of the Interior, and that any lands remaining unsold after the said lands have been opened to entry for seven years, may be sold to the highest bidder for cash without regard to the above minimum limit of price."

5. By striking out in line 20, page 4, the words "after deducting the amounts of", all of line 21, and in line 22, the same page, the words "the appraisements and sale", and adding after the word "Interior" in line 2, page 5, the words "and he may, in his discretion, pay a portion of the proceeds to the Indians in cash, per capita, share and share alike, if in his opinion such payments will be for the best interests of said Indians."

6. By striking out in line 5, page 5, the words "sixty-five thousand" and inserting the words "one hundred and thirty thousand", and by striking out in line 7, page 5, the words "and for the necessary ex-", and all of lines 8, 9, 10 and 11.

7. By striking out in lines 15 and 16, page five, the words "one dollar and twenty-five" and inserting the words "two dollars and fifty", and inserting in line 19, between the words "Tripp" and "are", the words "one said strip in Lyman County".

8. By striking out in line 7, page 6, the words "and with authority to re-appraise said", and all of lines 8, 9, 10, 11, 12, 13, 14, 15, 16, and 17, page 6.

9. By striking out in line 3, page 7, the words "and expend", because these are repeated.

10. By adding a section as follows:

"Section 7. The Secretary of the Interior is hereby authorized to reserve from said lands such tracts for town-site purposes as, in his opinion, may be required for the future public interests, and he may cause the same to be surveyed into lots and blocks and disposed of under such rules and regulations as he may prescribe in accordance with section twenty-three hundred and eighty-one of the Revised Statutes. The net proceeds derived from the sale of such lands shall be credited to the Indians as hereinbefore provided.

I respectfully recommend that the amendments proposed be laid before the Chairman of the Senate Committee on Indian Affairs for the consideration of the committee, if they meet with your approval.

It is respectfully suggested that his special attention be invited to the fact that Inspector McLaughlin is now in the field with instructions to negotiate with the Rosebud Indians for the cession of their surplus unallotted lands in Tripp County and the strip above described; that a report is expected from him in a reasonable time, and that when received it will be laid before the Senate and House Committees on Indian Affairs for their consideration, accompanied by such recommendations as may seem proper in the premises.

I have heretofore said in substance that, in my judgment, it is a mistake for Congress to direct the restoration of the surplus lands of an Indian reservation to the public domain without first referring the question to the Indians; that they are apt to become dissatisfied and resentful, and that this greatly retards the Government's efforts for their advancement.

If action on the bill under consideration could be postponed until the receipt of Inspector McLaughlin's report, it might simplify matters to some extent.

The letter of the Chairman and the bill are returned herewith. A copy of this report is enclosed.

Very respectfully,

/s/F. E. Leupp
F. E. Leupp
Commissioner.

JHH.Ph.

[#28]

(Memorial of the South Dakota legislature petitioning Congress to hasten the opening of Tripp County lands in the Rosebud Reservation)

[41 Cong. Rec. 241 (1906-1907)]

Rosebud Reservation:

* * *

— memorial of legislature of South Dakota for restoration of public domain of portion of 3858, 3859, 3860, 3861.

[41 Cong. Rec. 3858-3861 (1907)]

PETITIONS AND MEMORIALS.

* * *

A joint resolution memorializing Congress to open Tripp County, S. Dak., to homestead settlement.

Be it resolved by the house of representatives (the senate concurring), That

Whereas there have been introduced into the National Congress certain measures looking to the opening to homestead settlement that part of the Rosebud Reservation, in the State of South Dakota, lying and being in Tripp County, S. Dak.; and

Whereas said county comprises approximately 1,000,000 acres of land which needs only settlement

and development to make it productive, and which when opened to settlement will add much to the assessment rolls and population of our great State; and

Whereas a line of railroad is now being constructed to the east boundary of said tract, which will greatly assist in its development as soon as it is opened to settlement; and

Whereas in its present wild state said land brings very little revenue to the Indians, and none whatever to the State: Therefore, be it

Resolved, That we, for the good of the Indians and for the further development of our State, petition the Congress of the United States to hasten to provide ways and means for the early opening of this body of land to homestead settlement under such restrictions and conditions as they may deem wise, and that the secretary of state be authorized and directed to transmit a copy of this resolution to the Speaker of the House of Representatives of the United States and to the President of the Senate.

M. J. Chaney,
Speaker of the House.

Attest:

James W. Cone, *Chief Clerk.*

Howard G. Shober,
President of the Senate.

Attest:

L. M. Simons, *Secretary of the Senate.*

I hereby certify that the within joint resolution originated in the house of representatives and was known in the house files as joint resolution No. 5.

James W. Cone, *Chief Clerk.*

State of South Dakota, *Office of the Secretary of State*,
ss:

Filed February 19, 1907, at 4:20 o'clock p.m.

D. D. Wipf, *Secretary of State.*

The VICE-PRESIDENT presented a joint resolution of the legislature of South Dakota: which was referred to the Committee on Interstate Commerce, and ordered to be printed in the Record, as follows:

State of South Dakota,
Department of State, Secretary's Office.

United States of America, State of South Dakota:

I, D. D. Wipf, secretary of state of South Dakota and keeper of the great seal thereof, do hereby certify that the attached instrument of writing is a true and correct copy of house joint resolution No. 11 as passed by the tenth legislative assembly of the State of South Dakota, and of the whole thereof, and has been compared with the original now on file in this office.

In testimony whereof I have hereunto set my hand and affixed the great seal of the State of South Dakota. Done at the city of Pierre this 19th day of February, 1907.

[SEAL.]

D. D. Wipf, *Secretary of State.*

A joint resolution memorializing Congress to pass a law enlarging the powers of the Interstate Commerce Commission, and to keep the highways of commerce open to all upon equal terms.

Be it resolved by the house of representatives (the senate concurring), That it is the sense and belief of the legislature of the State of South Dakota that it will be to the best interest of the people of the State and of the United States that Congress enact such laws as will keep the highways of commerce open to all upon equal

terms, and to put a complete stop to all rebates and abuses of traffic and of discriminations made to shippers, and to stop all rebates and discriminations of terminal track and sidetrack systems.

Resolved, That we most heartily concur in the following expressed opinion of President Roosevelt:

"The Government must in increasing degree supervise and regulate the workings of the railways engaged in interstate commerce, and such increased supervision is the only alternative to an increase of the present evils on the one hand or a still more radical policy on the other."

Therefore we most respectfully petition and request the Congress of the United States to enact such laws as will prevent abuse and discrimination on the highways of commerce and of terminal and sidetrack systems.

Resolved, That the Members of Congress from South Dakota are hereby requested to use their influence and best efforts to procure the enactment of such needed legislation.

M. J. Chaney,
Speaker of the House.

Attest:

James W. Cone, *Chief Clerk.*

Howard C. Shober,
President of the Senate.

Attest:

L. M. Simons, *Secretary of the Senate.*

I hereby certify that the within joint resolution originated in the house of representatives and was known in the house files as house joint resolution No. 11.

James W. Cone, *Chief Clerk.*

State of South Dakota, *Office Secretary of State, ss:*
Filed February 19, 1907, at 4:20 o'clock p.m.

D. D. Wipf, *Secretary of State.*

A joint resolution memorializing Congress to open Tripp County, S. Dak., to homestead settlement.

Be it resolved by the house of representatives (the senate concurring), That

Whereas there have been introduced into the National Congress certain measures looking to the opening to homestead settlement that part of the Rosebud Reservation in the State of South Dakota lying and being in Tripp County, S. Dak.: and

Whereas said county comprises approximately 1,000,000 acres of land which needs only settlement and development to make it productive, and which, when open to settlement, will add much to the assessment rolls and population of our great State; and

Whereas a line of railroad is now being constructed to the east boundary of said tract which will greatly assist in its development as soon as it is opened to settlement; and

Whereas in its present wild state said land brings very little revenue to the Indians and none whatever to the State: Therefore, be it

Resolved, That we, for the good of the Indians and for the further development of our State, petition the Congress of the United States to hasten to provide ways and means for the early opening of this body of land to homestead settlement under such restrictions and conditions as they may deem wise, and that the secretary of state be authorized and directed to transmit a copy of

this resolution to the Speaker of the House of Representatives of the United States and to the President of the Senate.

M. J. Chaney,
Speaker of the House.

Attest:

James W. Cone, *Chief Clerk.*

Howard C. Shober,
President of the Senate.

Attest:

L. M. Simons, *Secretary of the Senate.*

I hereby certify that the within joint resolution originated in the house of representatives and was known in the house files as joint resolution No. 5.

James W. Cone, *Chief Clerk.*

State of South Dakota, *Office Secretary of State, ss:*

Filed February 19, 1907, at 4:20 o'clock p.m.

D. D. Wipf, *Secretary of State.*

State of South Dakota,
Department of State, Secretary's Office

United States of America, State of South Dakota:

I, D. D. Wipf, secretary of state of South Dakota and keeper of the great seal thereof, do hereby certify that the attached instrument of writing is a true and correct copy of House joint resolution No. 11, as passed by the tenth legislative assembly of the State of South Dakota, and of the whole thereof, and has been compared with the original now on file in this office.

In testimony whereof I have hereunto set my hand and affixed the great seal of the State of South Dakota.

Done at the city of Pierre, this 19th day of February, 1907.

[SEAL.] D. D. Wipf, *Secretary of State.*

A joint resolution memorializing Congress to pass a law enlarging the powers of the Interstate Commerce Commission and to keep the highways of commerce open to all upon equal terms.

Be it resolved by the house of representatives (the senate concurring), That it is the sense and belief of the legislature of the State of South Dakota that it will be to the best interest of the people of the State and of the United States that Congress enact such laws as will keep the highways of commerce open to all upon equal terms, and to put a complete stop to all rebates and abuses of traffic, and of discriminations made to shippers, and to stop all rebates and discriminations of terminal track and sidetrack systems.

Resolved, That we most heartily concur in the following expressed opinion of President Roosevelt:

"The Government must in increasing degree supervise and regulate the workings of the railways engaged in interstate commerce, and such increased supervision is the only alternative to an increase of the present evils on the one hand or a still more radical policy on the other."

Therefore we most respectfully petition and request the Congress of the United States to enact such laws as will prevent abuses and discrimination on the highways of commerce and of terminal and sidetrack systems.

Resolved, That the Members of Congress from South Dakota are hereby requested to use their influence and best efforts to procure the enactment of such needed legislation.

M. J. Chaney,
Speaker of the House.

Attest:

James W. Cone, *Chief Clerk.*

Howard C. Shober,
President of the Senate.

Attest:

L. M. Simons, *Secretary of the Senate.*

I hereby certify that the within joint resolution originated in the house of representatives and was known in the house files as "house joint resolution No. 11."

James W. Cone, *Chief Clerk.*

State of South Dakota, *Office Secretary of State, ss:*
Filed February 19, 1907, at 4:20 o'clock p.m.

D. D. Wipf, *Secretary of State.*

Mr. KITTREDGE. I present a joint resolution of the legislature of South Dakota, which I ask may be printed in the Record and referred to the Committee on Public Lands.

The joint resolution was referred to the Committee on Public Lands and ordered to be printed in the Record, as follows:

State of South Dakota,
Department of State, Secretary's Office,
United States of America, *State of South Dakota.*

I, D. D. Wipf, secretary of state of South Dakota and keeper of the great seal thereof, do hereby certify that the attached instrument of writing is a true and correct copy of house joint resolution No. 5 as passed by the tenth legislative assembly of the State of South Dakota,

and of the whole thereof, and has been compared with the original now on file in this office.

In testimony whereof I have hereunto set my hand and affixed the great seal of the State of South Dakota, done at the city of Pierre this 19th day of February, 1907.

[SEAL.]

D. D. Wipf, *Secretary of State.*

A joint resolution memorializing Congress to open Tripp County, S. Dak., to homestead settlement.

Be it resolved by the house of representatives (the senate concurring), That whereas there have been introduced into the National Congress certain measures looking to the opening to homestead settlement that part of the Rosebud Reservation, in the State of South Dakota, lying and being in Tripp County, S. Dak.; and Whereas said county comprises approximately 1,000,000 acres of land which needs only settlement and development to make it productive, and which when opened to settlement will add much to the assessment rolls and population of our great State; and

Whereas a line of railroad is now being constructed to the east boundary of said tract, which will greatly assist in its development as soon as it is opened to settlement; and

Whereas in its present wild state said land brings very little revenue to the Indians, and none whatever to the State: Therefore, be it

Resolved, That we, for the good of the Indians and for the further development of our State, petition the Congress of the United States to hasten to provide ways and means for the early opening of this body of land to homestead settlement, under such restrictions and conditions as they may deem wise; and

That the secretary of state be authorized and directed to transmit a copy of this resolution to the Speaker of the House of Representatives of the United States and to the President of the Senate.

M. J. Chaney,
Speaker of the House.

Attest:

James W. Cone, *Chief Clerk.*

Howard C. Shober,
President of the Senate.

Attest:

L. M. Simons, *Secretary of the Senate.*

I hereby certify that the within joint resolution originated in the house of representatives and was known in the house files as "joint resolution No. 5."

James W. Cone, *Chief Clerk.*

State of South Dakota, *Office Secretary of State, ss:*

Filed February 19, 1907, at 4:20 p.m.

D. D. Wipf, *Secretary of State.*

[#29]

(Legislative history of S. 6303 bill authorizing the allotment of lands to certain Sioux Indians of the Rosebud Reservation.)

[42 Cong. Rec. 494 (1907-1908)]

Rosebud Reservation: bill for allotment of lands to certain Sioux Indians on (see bill S. 6303).

[42 Cong. Rec. 174 (1907-1908)]

S. 6303—

Authorizing the allotment of lands to certain Sioux Indians of the Rosebud Reservation, in the State of South Dakota.

Mr. Gamble: Committee on Indian Affairs 3777.—Reported back (S. Report 440) 4211.—Debated and passed Senate 4404.—Referred to House Committee on Indian Affairs 4482.

[42 Cong. Rec. 3777 (1908)]

Mr. GAMBLE introduced a bill (S. 6303) authorizing the allotment of lands to certain Sioux Indians of the Rosebud Reservation, in the State of South Dakota, which was read twice by its title and referred to the Committee on Indian Affairs.

[42 Cong. Rec. 4211 (1908)]

Mr. GAMBLE, REPORTS OF COMMITTEES.

* * *

He also, from the same committee, to whom was referred the bill (S. 6303) authorizing the allotment of lands to certain Sioux Indians of the Rosebud Reservation, in the State of South Dakota, reported it without amendment, and submitted a report (No. 440) thereon.

[42 Cong. Rec. 4404-4405 (1908)]

LANDS OF ROSEBUD RESERVATION, S. DAK.

The bill (S. 6303) authorizing the allotment of lands to certain Sioux Indians of the Rosebud Reservation, in the State of South Dakota, was considered as in Committee of the Whole.

Mr. GORE. I should like to ask who is the author of the bill?

The VICE-PRESIDENT. The bill was introduced by the Senator from South Dakota [Mr. Gamble].

Mr. GAMBLE. The bill was prepared by the Department. The act of Congress of March 1, 1907, allowed allotments to be made to all minor children upon reservations in South Dakota, and on March 2 a law was passed opening the surplus lands on the Rosebud Reservation within the limits Tripp County, which permitted allotments to be made to the Indians upon that reservation who were then living. It limited the

general law as applied to all the reservations. This is simply to put the law back to where it was on the 1st day of March, 1907, and permit allotments to be made to minor children in South Dakota upon these particular reservations as long as there are surplus lands upon which allotments can be made.

Mr. GORE. Is it a Senate or a House bill?

Mr. GAMBLE. It is a Senate bill. It applies only to lands in the State of South Dakota.

Mr. GORE. It was introduced by the Senator?

Mr. GAMBLE. It was introduced by myself.

Mr. GORE. I have a bill pending authorizing the Secretary of the Interior to allot land to one Herman Lehman (Montechema) in the Kiowa and Comanche reservations in the State of Oklahoma. The bill has the approval of the Secretary of the Interior and the Indian Department. I want to offer it as an amendment to this bill if it would not be objectionable to the author of the bill. I do not want to embarrass the bill, and I do not think it would, because the bill I have pending is approved by the Commissioner of Indian Affairs. If the Senator has no objection I should like to offer it as an amendment to this bill.

Mr. GAMBLE. Of course, I would very much prefer that the bill should not be amended. It is a local matter and applies entirely to the Indians upon this particular reservation. Allotments are now being made to minor children, but under the act of March 2, 1907, opening a part of the lands, Indian allottees are permitted to change their allotments. This bill ought to become a law, and I am afraid if amendments are added it would delay it and probably defeat its passage. I very much prefer that the other bill should proceed in its regular way rather than have it as an amendment upon what is purely a local measure.

Mr. CULBERSON. Let the report be read.

The VICE-PRESIDENT. The Secretary will read the report at the request of the Senator from Texas.

The Secretary read the report submitted by Mr. Gamble, from the Committee on Indian Affairs, April 1, 1908, as follows:

Mr. GAMBLE, from the Committee on Indian Affairs, to whom was referred the bill (S. 6303) authorizing the allotment of lands to certain Rosebud Sioux Indian children in the State of South Dakota, having had the same under consideration, submits the following report, and recommends that the bill do pass.

The accompanying communication from the Secretary of the Interior is submitted as a part of this report, which states fully the necessities for the passage of the measure and reasons why the same should become a law:

Department of the Interior,
Washington, February 7, 1908.

Sir: The act of March 1, 1907 (34 Stat. L., 1015, 1018), provides:

"That hereafter the President shall cause allotments to be made under the provisions of said act (the act of March 2, 1889, 25 Stat. L., 888) to any living children of Indians affected thereby who have not heretofore been allotted: *Provided*, That the tribe to which said Indian children belong is possessed of any unallotted tribal or reservation lands."

The effect of this act was to authorize allotments to be made to children of Indians belonging on any of the great Sioux reservations so long as the tribe inhabiting the reservation on which they were entitled to receive an allotment was possessed of tribal land. This affected the Standing Rock,

Cheyenne River, Lower Brulé, Crow Creek, Pine Ridge, and Rosebud reservations, in South Dakota, and Standing Rock Reservation, in North Dakota.

The act of March 2, 1907 (34 Stat. L., 1230), provides *inter alia* for the allotment of—

"One hundred and sixty acres of land to each child of Indian parentage whose father or mother is or was, in case of death, a duly enrolled member of the Sioux tribe of Indians belonging on the Rosebud Reservation who is living at the time of the passage and approval of this act and who has not heretofore received an allotment."

The effect of the wording of this act was to limit the provisions of the act of March 1, 1907, so far as it affected the children of Indians belonging on the Rosebud Reservation to those who were born at the date of the passage of the act; and while the act of March 1, 1907, which is general in its character, provided that the children of Indians belonging on the Rosebud Reservation should receive allotments as long as that tribe was possessed of reservation lands, this provision was in effect repealed so far as it related to the Rosebud Reservation and resulted in discrimination against the children of Indians belonging on the Rosebud Reservation, which, in my opinion, should not exist. I have therefore caused to be prepared a draft of a bill which reenacts the provisions of the act of March 1, 1907, so as to make them applicable to the children of the Rosebud Reservation, and respectfully recommend that it be enacted into law.

Very respectfully,

James Rudolph Garfield,
Secretary.

The Speaker of the House of Representatives.

A bill.

Be it enacted, etc., That the Secretary of the Interior be, and he hereby is, authorized to cause allotments to be made under the provisions of the act of March 2, 1898, entitled "An act to divide a portion of the reservation of the Sioux Nation in Dakota into separate reservations and secure the relinquishment of the Indian title to the remainder, and for other purposes," to any living children of the Sioux tribe of Indians belonging on the Rosebud Reservation affected thereby, and who have not heretofore been allotted, so long as that tribe is in possession of any unallotted tribal or reservation lands.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

[42 Cong. Rec. 4482 (1908)]

SENATE BILLS AND RESOLUTION REFERRED.

Under clause 2 of Rule XXIV, Senate bills and joint resolution of the following titles were taken from the Speaker's table and referred to their appropriate committees as indicated below:

S. 6303. An act authorizing the allotment of lands to certain Sioux Indians of the Rosebud Reservation, in the State of South Dakota—to the Committee on Indian Affairs.

[#29A]

(Senate report to accompany S. 6303)

[S. Rep. No. 440, 60th Cong. 1st Sess. 1-2 (1908)]

Report No. 440.

ALLOTMENTS TO ROSEBUD SIOUX INDIAN CHILDREN.

April 1, 1908.—Ordered to be printed.

Mr. Gamble, from the Committee on Indian Affairs, submitted the following

REPORT.

[To accompany S. 6303.]

Mr. Gamble, from the Committee on Indian Affairs, to whom was referred the bill (S. 6303) authorizing the allotment of lands to certain Rosebud Sioux Indian children in the State of South Dakota, having had the same under consideration, submits the following report and recommend that the bill do pass.

The accompanying communication from the Secretary of the Interior is submitted as a part of this report, which states fully the necessities for the passage of the measure and reasons why the same should become a law.

Department of the Interior,
Washington, February 7, 1908.

Sir: The act of March 1, 1907 (34 Stat. L., 1015, 1048), provides:

"That hereafter the President shall cause allotments to be made under the provisions of said act (the act of March 2, 1889, 25 Stat. L., 888) to any living children of Indians affected thereby who have not heretofore been allotted: *Provided*, That the tribe to which said Indian children belong is possessed of any unallotted tribal or reservation lands."

The effect of this act was to authorize allotments to be made to children of Indians belonging on any of the great Sioux reservations so long as the tribe inhabiting the reservation on which they were entitled to receive an allotment was possessed of tribal land. This affected the Standing Rock, Cheyenne River, Lower Brulé, Crow Creek, Pine Ridge, and Rosebud reservations in South Dakota and Standing Rock Reservation in North Dakota.

The act of March 2, 1907 (34 Stat. L., 1230), provides *inter alia* for the allotment of—

"One hundred and sixty acres of land to each child of Indian parentage whose father or mother is or was, in case of death, a duly enrolled member of the Sioux tribe of Indians belonging on the Rosebud Reservation *who is living at the time of the passage and approval of this act* and who has not heretofore received an allotment."

The effect of the wording of this act was to limit the provisions of the act of March 1, 1907, so far as it affected the children of Indians belonging on the Rosebud Reservation to those who were born at the date of the passage of the act; and while the act of March 1, 1907, which is general in its character, provided that the children

of Indians belonging on the Rosebud Reservation should receive allotments as long as that tribe was possessed of reservation lands, this provision was in effect repealed so far as it related to the Rosebud Reservation and resulted in discrimination against the children of Indians belonging on the Rosebud Reservation, which in my opinion should not exist. I have therefore caused to be prepared a draft of a bill which reenacts the provisions of the act of March 1, 1907, so as to make them applicable to the children of the Rosebud Reservation, and respectfully recommend that it be enacted into law.

Very respectfully,

James Rudolph Garfield,
Secretary.

The Speaker of the House of Representatives.

A BILL.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he hereby is, authorized to cause allotments to be made under the provisions of the act of March second, eighteen hundred and ninety-eight, entitled "An act to divide a portion of the reservation of the Sioux Nation in Dakota into separate reservations and secure the relinquishment of the Indian title to the remainder, and for other purposes," to any living children of the Sioux tribe of Indians belonging on the Rosebud Reservation affected thereby, and who have not heretofore been allotted, so long as that tribe is in possession of any unallotted tribal or reservation lands.

[#30]

(Legislative history of S. 7379—a bill for sale of surplus lands in Rosebud Reservation.)

[43 Cong. Rec. 228 (1908-1909)]

Rosebud Reservation: bill for sale of surplus lands in (see bill S. 7379)

[43 Cong. Rec. 27 (1908-1909)]

S. 7379—

To authorize the sale and disposition of a portion of the surplus and unallotted lands in the Rosebud Indian Reservation, in the State of South Dakota, and making appropriation and provision to carry the same into effect.

Mr. Gamble: Committee on Indian Affairs 65.—Reported back with amendments (S. Report 887) 1559.—Debated 1679.

[43 Cong. Rec. 65 (1908)]

A bill (S. 7379) to authorize the sale and disposition of a portion of the surplus and unallotted lands in the Rosebud Indian Reservation, in the State of South Dakota, and making appropriation and provision to carry the same into effect;

[43 Cong. Rec. 1559 (1909)]

Mr. GAMBLE, from the Committee on Indian Affairs, to whom was referred the bill (S. 7379) to

authorize the sale and disposition of a portion of the surplus and unallotted lands in the Rosebud Indian Reservation, in the State of South Dakota, and making appropriation and provision to carry the same into effect, reported it with amendments and submitted a report (No. 887) thereon.

[43 Cong. Rec. 1679 (1909)]

ROSEBUD INDIAN RESERVATION LANDS.

The bill (S. 7379) to authorize the sale and disposition of a portion of the surplus and unallotted lands in the Rosebud Indian Reservation, in the State of South Dakota, and making appropriation and provision to carry the same into effect, was announced as next in order.

Mr. KITTREDGE. Let the bill go over under Rule IX.

The VICE-PRESIDENT. The bill will go to the calendar under Rule IX.

Mr. GAMBLE. Mr. President, I appreciate that under the rules of the Senate the objection may be insisted upon, but here is a matter of very good interest to the people of my State. The Rosebud Indians have a reservation of nearly 2,000,000 acres. A bill has been introduced and favorably reported upon by the Interior Department, and a unanimous report made from the Committee on Indian Affairs, under which it is proposed to open about one-half of the reservation to settlement. As the conditions are, those Indians have largely been allotted. A few minors are still to be allotted. Under no circumstances could action be taken looking to the opening of the reservation earlier than the coming fall. In the meantime all of the allotments

would be made. With this reservation standing unopened to settlement, it is retarding the development and growth of that section of the State.

If my colleague has any proper or reasonable amendments to offer to the bill, I will be very glad to have them offered and considered by the Senate, but I do protest that under the unanimous-consent agreement we entered into a mere objection can throw the bill over under Rule IX.

If it were in order, Mr. President, I would move that the Senate proceed to the consideration of the bill, the objection of the Senator to the contrary notwithstanding.

The VICE-PRESIDENT. The bill goes to the calendar under Rule IX, at the request of the senior Senator from South Dakota [Mr. Kittredge]. This completes the printed calendar under the unanimous-consent agreement.

(#30A – Senate report to accompany S. 7379)

[S. Rep. No. 887, 60th Cong. 2d Sess. 1-4 (1909)]

SALE OF PORTION OF SURPLUS LANDS
ON ROSEBUD RESERVATION.

January 29, 1909.—Ordered to be printed.

Mr. Gamble, from the Committee on Indian Affairs, submitted the following

REPORT.

[To accompany S. 7379.]

The Committee on Indian Affairs, to whom was referred the bill (S. 7379) to authorize the sale and disposition of a portion of the surplus and unallotted lands in the Rosebud Indian Reservation in the State of South Dakota, and making appropriation and provision to carry the same into effect, having had the same under consideration, beg leave to report that said bill do pass with the following amendments:

On page 8, line 2, strike out the words "one dollar and twenty-five," and insert in lieu thereof the words "two dollars and fifty."

On page 8, line 16, strike out the word "sixty-five" and insert in lieu thereof the words "one hundred and thirty."

The present area of the Rosebud Indian Reservation aggregates 1,800,000 acres. The lands proposed to

be opened to settlement under the provisions of this bill embrace an area of about 900,000 acres. It is the understanding of the committee that practically all allotments to the adult Indians on this reservation have been made. Provision has been made under recent statutes for the allotment of all the minor children on the reservation, and this work is now in progress and it is expected it can be completed before the expiration of the present year.

The provisions of the bill are substantially the same as the one passed during the last session of Congress for the opening of about 3,000,000 acres on the Cheyenne River and Standing Rock Indian reservations in the States of North and South Dakota. In that case the bill in question was submitted to the Indians upon those reservations prior to its passage, and with slight modifications was approved by them. It was at first contemplated to submit this bill, through an Indian inspector, for the consideration of the Rosebud Indians, but the inspector, who for a number of years has had that especial work in charge, is otherwise occupied and has been unable to take it up, and it is felt by the committee that the provisions of the bill are fair and just to the Indians in all respects, and it would delay the consideration of the matter unduly if action were withheld for that purpose, and the measure could not receive consideration during the present session of Congress.

The reservation is yet large, and in the judgment of your committee the surplus and unallotted lands are unnecessary for the use of the Indians, and that the opening of the reservation would result in a large increase in the settlement and the development of that part of the State, and would enhance to a very large extent the value of the holdings of the Indians. Your

committee regard it of the highest importance, not only to the Indians themselves but to the people of the State and of the General Government, that all surplus lands should be opened to settlement at the earliest practicable date.

The bill provides that prior to the issuance of the proclamation for the opening of the lands to settlement, the Secretary of the Interior shall cause allotments to be made to all Indians and minors belonging to or holding tribal relations with the Indians upon the reservation who have not heretofore been allotted. It also provides that the Secretary of the Interior, in his discretion, may permit Indians who have an allotment within the area proposed to be opened to relinquish such allotments and to receive in lieu thereof allotments anywhere within the reservation proposed to be diminished.

Section 16 and 36 of the lands in each township are not to be disposed of, but are reserved for the use of the common schools of the State, and these lands are to be paid for by the Government in conformity with the provisions of the act admitting the State of South Dakota into the Union. The Secretary of the Interior authorized to reserve such lands as are necessary for agency, school, and religious purposes in conformity with the practice of the Government in measures of this character.

The lands to be opened are to be inspected, appraised, and valued by a commission for that purpose appointed by the President of the United States, which appraisement is subject to the approval of the Secretary of the Interior. The land to be opened are reserved for homesteads, and one-fifth of the price is fixed for the land is to be paid upon entry thereof and the balance in five equal annual installments. The

Secretary of the Interior is also authorized to reserve from said lands such tracts for town-site purposes as in his opinion may be required for the future public interests, and the moneys realized from the sale thereof are to be applied to the benefit of the tribe. The moneys derived from the sale of the lands are to be deposited in the Treasury of the United States to the credit of the Indians of the tribe, and the same shall draw interest at 3 per cent per annum, and these moneys shall be expended for the benefit of the tribe under the direction of the Secretary of the Interior.

The communication from the Secretary of the Interior reporting upon the bill is herewith submitted and made a part of this report.

Department of the Interior,
Washington, January 26, 1909.

Sir: The department has received your letter of December 12, 1908, transmitting for recommendation and report a copy of Senate bill 7379, authorizing the sale and disposition of the surplus unallotted lands on a part of the Rosebud Indian Reservation, in the State of South Dakota. You suggest that Inspector James McLaughlin be detailed for the purpose of bringing the provisions of the bill to the attention of the Indians with a view of procuring an expression of their views regarding the opening of that part of the reservation described in the bill.

In response you are informed that the department recognizes the fact that Congress can enact legislation of this character without the consent of the Indians interested, but agrees with you that the views of the Indians should be procured before the bill is finally acted on, as it facilitates the work of allotment if the Indians of the tribe have

the provisions of the bill explained to them in advance and are given an opportunity to suggest amendments which, if deemed reasonable, Congress may be glad to adopt.

It agrees with you also that Inspector McLaughlin, owing to his long experience with the Sioux Indians, is the most satisfactory person to bring this matter to the attention of the members of the Rosebud tribe, and it is believed that he can do more with these Indians in the way of discussing the provisions of the pending bill than any other man now connected with the service.

Mr. McLaughlin, however, has been detailed recently to the work of supervising the distribution of over \$698,000 among some 4,440 beneficiaries under a recent judgment of the Court of Claims, payment for which was authorized by the act of May 30, 1908. (35 Stat. L., 514.) These beneficiaries are scattered throughout several States, and it will take three or four months, if not longer, to complete this work. Mr. McLaughlin's acquaintance with these Indians makes his services in connection with this payment almost indispensable, but while he is engaged therein an excellent opportunity will be given him to confer with the Indians of the Rosebud tribe regarding the intention of Congress to open a part of their reservation at an early date, thereby paving the way for ultimately procuring promptly the views of the Indians regarding the provisions of the pending bill.

The Rosebud Reservation has been reduced very rapidly during the last few years, and intimations have reached this department from trustworthy sources that there is danger that the land available for allotment may be exhausted if too large a reduction is made at this time. I do not believe, therefore, that the strip of land on the east of the present diminished reservation should be opened

yet; but should the Congress take action at this session, it is respectfully recommended that the bill be amended by striking out the description of the part of the reservation to be opened (page 1 and 2) and inserting in lieu thereof the following:

"Commencing at a point on the tenth standard parallel of latitude north where it is intersected by the western boundary of the Rosebud Indian Reservation, in the State of South Dakota; thence north along said boundary line to a point in the center of the main channel of the White River; thence easterly along the center of the main channel of the said White River to a point where the range line twenty-five west of the sixth principal meridian intersects the same; thence south on said range line twenty-five west of the sixth principal meridian to a point where it is intersected by the tenth standard parallel of latitude north; thence west along said parallel to the place of beginning."

Whether action is had on the pending bill at this or subsequent sessions of the Congress it is recommended further that the bill be amended by striking out the words "one dollar and twenty-five cents," in section 7, page 8, line 22, and inserting in lieu thereof the words "two dollars and fifty cents;" and that section 8, page 8, line 16, be amended by striking out the word "sixty-five" and inserting in lieu thereof the words "one hundred and thirty."

In connection with the foregoing, attention is invited to the fact that prior to the passage of the act of May 29, 1908 (35 Stat. L., 460), Inspector McLaughlin was sent to the Standing Rock and Cheyenne River reservations for the purpose of bringing to the attention of the Indians the provisions of the bill then pending to open the

parts of the reservation named. At a meeting of the Indians of both of the tribes named it was informally agreed that \$2.50 per acre would be paid them for all lands granted the States of North and South Dakota for school purposes. As originally passed by the Senate the bill then pending (S. 1385, 60th Cong., 1st sess.) did provide for the payment of these lands at the rate of \$2.50 per acre, but as passed in the House the price was reduced to \$2 per acre; but when the bill came from conference and as finally passed it provided for the payment of these lands at the rate of \$1.25 per acre.

On being informed of the provisions of the act of May 29, 1908, supra, the Indians of both reservations expressed themselves as being very much dissatisfied and disappointed, believing that the Government had not exercised good faith in dealing with them in this matter, inasmuch as in their opinion they should have received \$2.50 per acre for their land, and as appeared from the above facts this was the belief also of a large number of Members of Congress who had given the matter careful attention.

It is believed, therefore, that the Congress can not only well afford but would desire, with all these facts before it, to arrange to pay the Indians for all lands granted the State of South Dakota for school purposes at the rate of \$2.50 per acre.

Very respectfully,

James Rudolph Garfield, *Secretary.*

Hon. Robert J. Gamble,
United States Senate.

[#31]

(Letter of February 10, 1909 to Senator Clapp from the Secretary of the Interior concerning S. 7379)

Subject:
Senate Bill No.
7379.

Hon. Moses E. Clapp,
Chairman, Committee on Indian Affairs,
United States Senate.

Sir:

I am in receipt of your letter of December 15, 1908, transmitting for recommendation and report a copy of Senate Bill No. 7379, authorizing the sale and disposition of the surplus unallotted lands on a part of the Rosebud Indian Reservation, South Dakota.

In response you are informed that the Department is in receipt of a copy of the same bill from Hon. Robert J. Gamble, United States Senate, who suggested that Inspector James McLaughlin be detailed for the purpose of bringing this matter to the attention of the Indians of the Rosebud tribe with a view of procuring their views on the provisions of the bill.

The Department fully recognizes the fact that Congress can enact legislation of this character without the consent of the Indians interested, but believes that it promotes a better spirit among the Indians, and facilitates the work of allotment, if the members of the tribe have the provisions of the bill explained to them in advance, and are given an opportunity to suggest amendments, which, if deemed reasonable, Congress may be glad to adopt.

It recognizes also the fact that Inspector McLaughlin, owing to his long experience with the Sioux Indians, can do more with the members of the Rosebud tribe in the way of discussing the provisions of the pending bill than any other man now connected with the Service. Mr. McLaughlin, however, has been detailed recently to supervise the work of distributing over \$698,000 to some 4,440 beneficiaries under a recent judgment by the Court of Claims; payment for which was authorized by the Act of May 30, 1908 (35 Stat. L., 514). These beneficiaries are scattered throughout the States of North Dakota, South Dakota and Minnesota. It will take three or four months, if not longer, to complete this work, and Mr. McLaughlin's acquaintance with these Indians makes his services in connection with this payment almost indispensable; but while he is engaged therein an excellent opportunity will be given him to confer with the Indians of the Rosebud tribe regarding the intention of Congress to open a part of their reservation at an early date thereby paving the way for a prompt expression of their views when the matter is formally brought to their attention.

If the Committee and the Congress agree with the Department and Senator Gamble that the Indians should have an opportunity to be heard before the bill is finally passed and that Inspector McLaughlin is the most satisfactory person to conduct the council, then action on the bill under discussion could well be delayed until this can be done. Again, it will probably take twelve months longer to complete the work of making allotments in severalty to the Indians on this reservation under existing laws, and as this work must be finished before the surplus lands can be appraised and opened it is not believed that such opening can be had prior to the year 1910. If action on the pending

bill is delayed until the next session of the Congress, an opportunity will have been given this Department to complete the work of making allotments in severalty on this reservation and to have Inspector McLaughlin obtain from the Indians an expression of their views regarding the method of opening the surplus lands. For these reasons it is not seen wherein any material advantage will be gained by passing the pending bill at this session of the Congress.

The Rosebud Reservation has been reduced very rapidly during the last few years, and intimations have reached the Department from trustworthy sources that there is danger that the land available for allotment may be exhausted if too large a reduction is made at this time. Hence I do not believe that the strip of land on the east of the present diminished reservation should be opened yet; but, should the Congress take action at this session, it is respectfully recommended that the bill be amended by striking out the description of the part of the reservation to be opened (pages 1 and 2) and inserting in lieu thereof the following:

Commencing at a point on the tenth standard parallel of latitude north where it is intersected by the western boundary of the Rosebud Indian reservation in the State of South Dakota; thence north along said boundary line to a point in the center of the main channel of the White River; thence easterly along the center of the main channel of the said White River to a point where the range line twenty-five west of the sixth principal meridian intersects the same; thence south on said range line twenty-five west of the sixth principal meridian to a point where it is intersected by the tenth standard parallel of latitude north; thence west along said parallel to the place of beginning.

Whether given consideration at this or subsequent sessions of the Congress it is recommended further that the bill be amended by striking out the words "one dollar and twenty-five cents" in section 7, page 8, line 2, and inserting in lieu thereof the words "two dollars and fifty cents", and that section 8, page 8, line 16, be amended by striking out the words "sixty-five" and inserting in lieu thereof the words "one hundred and thirty."

In connection with the foregoing, attention is invited to the fact that prior to the passage of the Act of May 29, 1908, (35 Stat. L., 460), Inspector McLaughlin was directed to proceed to the Standing Rock and Cheyenne River Reservations for the purpose of bringing to the attention of the Indians the provisions of the bill then pending to open parts of the reservations mentioned. At a conference with the Indians of both tribes it was agreed informally that they were to receive \$2.50 per acre for all lands granted the States for school purposes. As originally passed by the Senate the bill then pending (Senate 1385, 60th Congress, 1st Session) did provide for the payment of these lands at the price of \$2.50 per acre, but as passed in the House the price was reduced to \$2.00 per acre; but when the bill came from conference and as finally passed, it provided for the payment of these lands at the rate of \$1.25 per acre.

When the Indians on these two reservations were informed of the provisions of the Act of May 29, 1908, *supra*, they were very much dissatisfied and disappointed, claiming that good faith on the part of the government had not been exercised in dealing with them in this matter, believing that they should have received \$2.50 per acre for their land, and as appears from the above facts this was also the belief of a large

number of members of Congress who had given the matter careful attention.

I therefore hope that Congress, with all these facts before it, will arrange to pay the Indians for all lands granted the State of South Dakota for school purposes at the rate of \$2.50 per acre.

In view of the fact that this matter is complicated, as shown above, and that Inspector McLaughlin, who is especially desired to negotiate with the Indians, can not perform that duty for several months, I suggest that no further action be taken upon this bill at this session of Congress, but that this proposed legislation await a conference with the Indians by Inspector McLaughlin, and a further report to Congress.

Very respectfully,

/s/James R. Garfield
James R. Garfield
Secretary

[#32]

(Legislation history of S. 183—a bill for the sale of surplus and unallotted land in the Rosebud Reservation)

[44 Cong. Rec. 268 (1909)]

Rosebud Reservation: bills for sale and disposition of portion of surplus and unallotted lands in (see bills S. 183; H. R. 9544).

[44 Cong. Rec. 5 (1909)]

S. 183—

To authorize the sale and disposition of a portion of the surplus and unallotted lands in the Rosebud Indian Reservation in the State of South Dakota, and making appropriation and provision to carry the same into effect.

Mr. Gamble; Committee on Indian Affairs 132.

[44 Cong. Rec. 132 (1909)]

Mr. GAMBLE introduced a bill (S. 183) to authorize the sale and disposition of a portion of the surplus and unallotted lands in the Rosebud Indian Reservation, in the State of South Dakota, and making appropriation and provision to carry the same into effect, which was read twice by its title and referred to the Committee on Indian Affairs.

[#33]

(Legislation history of H. R. 9544—the House of Representatives' companion bill to S. 183, a bill for the sale of surplus and unallotted lands in the Rosebud Reservation)

[44 Cong. Rec. 268 (1909)]

Rosebud Reservation: bills for sale and disposition of portion of surplus and unallotted lands in (see bills S. 183; H. R. 9544).

[44 Cong. Rec. 315 (1909)]

H. R. 9544—

To authorize the sale and disposition of a portion of the surplus and unallotted lands in the Rosebud Indian Reservation in the State of South Dakota, and making appropriation and provision to carry the same into effect.

Mr. Burke of South Dakota; Committee on Indian Affairs 2013.

[44 Cong. Rec. 2013]

By Mr. BURKE of South Dakota: A bill (H. R. 9544) to authorize the sale and disposition of a portion of the surplus and unallotted lands in the Rosebud Indian Reservation in the State of South Dakota, and making appropriation and provision to carry the same into effect—to the Committee on Indian Affairs.

[#34]

(Excerpt from letter dated February 12, 1907 from Inspector McLaughlin to the Secretary of the Interior (N.A. Group 75 BIA letters received, 1881-1907, 17945—Land—1907))

[p. 3] After a full discussion of the different propositions, I prepared the agreement embracing the provisions as agreed upon, which, after being read and explained to the Indians assembled, was accepted and the agreement was immediately signed by 43 Indians of those present. Then, in order to obtain the required number of signatures and make it unnecessary for the Indians to travel long distances from their homes to the Agency for that purpose in the cold weather, I visited the headquarters of the several districts of the reservation where the Indians of the respective districts met me, thus visiting Spring Creek, Cut Meat, Butte Creek, Bad Nation, Big White River, Bull Creek, and Ponca Creek stations, at which points I explained the provisions of the agreement to the Indians assembled and received the signatures of all concurring in the agreement.

Some opposition was met with in the beginning, particularly in the Cut Meat and Black Pipe districts, but it was [p. 4] gradually overcome, and I am of the opinion that had the weather been pleasant so that the Indians could have been reached, that the signatures of nearly every Indian of the reservation would have been obtained, there being practically no opposition after the agreement was reached and fully understood by the Indians, and most of those who were in opposition for a time, signed the agreement before I left the Agency.

There are 1368 male adult Indians over 18 years of age belonging on the Rosebud Reservation, 705 of

whom have signed the agreement, being a majority of 42 of the male adults, and there is not much doubt but that it would have been unanimous, or nearly so, if all the interested Indians could have been reached.

(Excerpt from letter dated April 2, 1909 from the First Assistant Secretary of the Interior to Inspector McLaughlin (N.A. Group 75, BIA, Central File 1907-39, File 24400-09-3081, Pine Ridge))

You are hereby directed to take up with the Indians of the Pine Ridge and Rosebud Reservations the matter of opening parts of these reservations to settlement and entry, bills for which were pending before the last Congress.

[#34A]

(Minutes of Council of March 11, 1909 and April 21, 1909)

[1] Rosebud Agency, South Dakota,
March 11, 1909.

After Inspector McLaughlin had explained Senate Bill No. 7379 60th Congress, 2nd Session, to the assembled Indians, the several speakers replied as follows:

High Pipe:

My Friends: This question has been put before us and we have heard it and now let us go home and consider this question before we can answer this.

Sorrel Horse:

My Friend: You are a friend of ours. You have come to see us again to get some land. You tell us that the Great Father has sent you to see us about this land. I have always been a great friend of yours and have always tried to help you in every way that I can. We want to talk about this what you have told us so that we may answer you. We used to have four chiefs and headmen and now three have died and only one is living. This is a big reservation and I think the better way is to give some of these old men allotments and see them before we can tell you about it. As to giving a portion of this reservation, my friend, I feel very hard. We will have some children to grow and there will be no land for them if we give this away. That is all I want to say.

Crow Dog:

My Friend: This is what I want to say. When you came here once you promised us \$5.00 per acre. I think you made a mistake on some of that. You want to come to us again. When you came back we do not understand this question but we want to help you. We want to see

some of the promises fulfilled that you made [2] before you ask for more land. This piece of land you just mention and tell us. This is what you ought to say. The Great Father and the Commissioner, who is your friend, has sent me to talk about this land with you. This is the way you ought to say it and I am glad to mention this. A tribe of Indians named Santee is getting some money and we think it is a part of the Black Hills Treaty and we have a share in the same. I understand, my friend, that you have come to see what you can accomplish in getting this land. We have lots of business with the Great Father which he has not fulfilled with the tribe. I understand the question that you are leaving with us and you are going away. You are going to the office of your superior officer and we want you to tell him that we want to come and see him "eye to eye" and tell him what we think of this and talk with him. That is all I have to say.

High Pipe:

I just want to say a few words. I have been just away to Washington. The last time we were there they showed us that bill and I look at him very sharp with a hard eye. We said that we had read the bill before and the Senator that showed it to us had a map and we told him that we did not like it. My friend, we are Indians and we cannot accomplish much if you do not help us. This is one thing that we went to Washington for and we went to the Commissioner and mentioned this matter to him. We have waited for an answer but it has not yet come. I look at our young men and some of them has a quarter section of land allotted to them. Some of them have four children and some have five. What will their children do if we give all of this land away. How are they going to make a living. They make a rule that they cannot draw their money until they are 18 years old. I think this is very hard. How will their children [3] make their living? Will

the Great Father consider their families? Why don't you give them tools and other things to make their living for themselves. Some of them have sold their inherited land and some of them have got a good price for their lands. I now understand that the \$10.00 per month has been taken away and what are they going to do? I think this is pretty hard. I think that they should be given some money that they may buy what they need to make their living. When they have this they will make their living. The Great Father has made a treaty with us for two pieces of land and told us that we could keep the rest. We have told the Great Father so. We have sold some land and we now know the price of land. They ask us how much you want for your land. We say so much and some one makes a high bid and some one makes a low bid and I think you will tell us to take the low bid. I ask the Commissioner "you look at me and say if I am an old or a young man". He said "you are an old man". When I went to Washington I told him that he ought to give us some blankets and clothing with the money we have. I think this is a good idea. When I came back I told this to our Agent and he did not say anything. I asked him why he could not take some of that surplus \$1.25 money and buy those things, and you will see that we get this. When Gen. Crook made the first treaty with us and made some promises we believed him and we signed. We all chipped in about 20 cents apiece to go to Washington to see the Great Father about this land. If my friend, Hollow Horn Bear, was here he would tell you the same thing. He had a talk before the Senate and [4] before the Commissioner and we have said in Washington that I do not think this is right, my friend. And I want to tell you that we do not want to dispose of this land and we will all stand together and not dispose of this land. The Great Father wants us to give up this land and he has sent you to see if you can

get it. And I want to tell you that we do not want to sell it. There is my Agent and he is my friend and I talk with only one tongue. I never talk with two tongues. They want to change the freight from Valentine to Crookston. We get 35 cents for hauling from Valentine and we will only get 25 cents from Crookston and the people don't want this. When I went to Washington I asked the Great Father another thing. We want Indian Judges here. I told him that the Indian Judge would help our Agent in the sale of land. I heard that the Inspector with the white head and the metallic teeth was here to speak with us about some land and I want to give you a new name. You have been to see us about more land and this is the name I want to give you. *"The man who bothers his friends for more land"*.

Eagle Horse:

When we went to Washington a Senator named Gamble came and showed us a bill and a map in which we were to sell some more land. I told him that we did not want to sell any more land. We spoke to the Great Father about this and he has not answered us yet. I told the Senator that we wanted the vacant land for our children that have not been allotted yet. Of course I suppose they can do what they please and if this is done we have nothing to say. You want to make a treaty with us for that land [5] and we do not want to sell it. We know that you talk with a good heart. Of course we know that you were told to do this and we know it. Some of our people have allotments and some of the old ones have not. You will go home without taking any land with a good heart but you will be back in two or three years to see us again. This is what I wanted to tell you from the people at Black Pipe and now I will go home.

Silas P. Walker.

My Friend: When you came here before I wore citizen's clothes and now you are here again and I am still wearing citizen's clothes. I always try to be a white man. When you came here before I told them to sign that treaty and that they would be rich and you see that I am still poor. When I heard them talk about that bill I told them that they could not sell that land for they needed it for their children that would have to grow up. We are Indians and are not wise and we want you to help us in this matter. We do not want to dispose of any more of this land. We have some that have not received any land and we do not think that we can spare any more of this land. There will be children to grow up that will need this land. That is all I have to say now, my friend.

He Dog:

My Friend: You have spoken some words and I have heard it all. Some of our young men have spoken some words and I have listened. Sometimes I look at our young men and feel sorry for them. I make a garden but they do not, so they are poor. I have just taken some land. I took a quarter section in Meyer Co. and a quarter section in Tripp Co. I sold the quarter section in Tripp Co. and now I have a team of horses and a buggy which I drive around. [6] I thought I was going to go to Washington and they took my money and went there. I would have told the Great Father that we did not want to sell this land. I would like to have you leave this question with us so that we may talk it over. Many of our people are not here. We want to go to Washington and talk over this question with the Great Father. I am an Indian and I do not talk with two tongues. I like to talk with only one tongue. That was why I wanted to go to Washington. I never talk hard words with our Agent. But I want to know why we cannot get credit in the stores on account of our annuity

payments. I think that this is hard when we have some money coming and we cannot use it until we get it in hand. Some of our people are sick and they will not give them permission to kill beef. Some of them want beef tea and offal. This is hard on our people. This is what I want to say and that is why I want to go to Washington to see the Great Father and accomplish this. This is all I want to say.

Bear Looks Back:

My Friend: We have been just told that you are here and want to speak with us. Many of my people could not come and they have told me to come and speak for them. They told me that you had come for more land and they told me to tell you that it was "No Go". An old woman came to me just before I left and she told me to say this right out and not be ashamed and she cried when she said it. She said that there were many of our Indians that did not have any land and that we could not sell any more of this land if we did not want to starve. When you came before to make the treaty and you could not get the three fourths majority I took you to Little White River and got a lot of them to sign for you. [7] I live in that part that they want to open up and I want to say that our people do not like it. Most of our people live in that part and we do not want to sell this land. This is my mind on this. We want to save this land for our children that will grow up. They will need it. If they do not have land, what will they do? They will have to starve. My friend, I have not got much to say only that my people have told me to come here and tell you this. We do not want to give up this land.

Ring Thunder:

I have a little idea in my mind that I want to tell you. You have come here from the Great Father who has told you to get more land and I want to tell you that this

is very hard. My people do not want this and our young men will have increase in their family and they will want this land. We thought that when we gave up the other land that we would not have to give up any more. Now you are here to get some more land and it is very hard. If we give up this land we will be very poor. That is all I want to say.

Dog Soldier:

My Friend: The police have just told us that you have wanted to talk with us about some more land. Many of our people have not come and I want you to let us go home and hold a council and talk it over. We want you to come out and talk with us. Another thing that I want to talk with you is this. When any of our children who are not 18 years old die, what becomes of their money? We want that because we need it. We want to go out home and talk over this matter with our Indians. Many are not here and we cannot say much until we have talked with them. I want to [8] ask my Agent to let us hold a council and we will then talk to you and tell you what we think. This is all I have to say.

Broncho Bill:

My Friend: Our Indians that went to Washington have told us about that bill and I want you to go and tell that Senator to respect his office and respect us. We do not want to give up this land for we need it for our young men that are growing up. They have children and will have some more. Where will they get land if we give this away. Where will they live and how will they make their living? I think that Senator has a bad heart toward us in trying to get this land from us. Let that Senator respect his office and his superior officers. We do not want to give up this land as we are very poor now. When they made the last treaty they told us that we would not have to give up any more land. This is the way that we

understood that. We want to tell you to go back and tell them that we do not want to give up any more land. We are common Indians and do not understand much. We hope that they will not take any more of this land and open any part of our land. That was all I wanted to tell you.

/s/ M.A. Buffalo
Stenographer

[1] PROCEEDINGS OF COUNCIL HELD BY JAMES MCLAUGHLIN, U.S. INDIAN INSPECTOR, with the Indians of the Rosebud Reservation, South Dakota, with reference to the opening of a part of their reservation to settlement, as contemplated by Senate Bill 7379, Sixtieth Congress, 2nd Session: Council convened at Rosebud Agency, South Dakota, at 2:00 P.M., Wednesday April 21, 1909, with Superintendent Edward B. Kelley and about 100 male adult Indians of the reservation in attendance, with Louis Roubideaux and Louis Bordeaux, interpreters: Supt. Kelley:

My friends, it is not necessary for me to introduce Major McLaughlin at this time as he has been here a great many times before. He comes here under instructions of the Department and the Secretary of the Interior to talk with you further about opening more of the reservation. He was here a short time ago and held a short council with you on March 11, 1909, and at that time he told you that he would report to the Department what you said and await for instructions before proceeding any further. Now I have seen a copy of his letter to the Department what was done in your council and also in the council at Pine Ridge. In that letter he said that he would like to report at Washington and talk this matter over with the Commissioner and the Secretary of the

Interior. But as the time was short and in order to accomplish anything he came back from St. Paul where he had gone on his way to Washington from here and the Assistant Secretary of the Interior wired him on the 26th of March to proceed at once to the Pine Ridge Reservation and that he [2] would receive instructions there. When he came back to Pine Ridge he received a letter of instructions to council with the Indians of Pine Ridge about this matter and then proceed here. As I told you in council on the 3rd of April, he had written me that he would be here about the middle of the month to council with you on the same subject. So we will let Major McLaughlin to present this matter to you in his own way and when he is through we want you to express yourselves in any way that you want to talk afterwards."

Inspector McLaughlin:

"My friends: I am glad to meet you again and, when considering the inclement weather and bad roads, to see so many of you present. I have visited your agency many times in the past fourteen years and our relations have always been very pleasant and am pleased to meet you again today. You all know me well and know that I am your friend and have an interest in your welfare.

I am here again under orders of the Secretary of the Interior to present to you the question of opening to settlement the surplus lands of a certain part of your reservation as contemplated by a bill introduced by Senator Gamble on December 9th last, and you have been assembled here in council today that I may explain to you this pending legislation.

On the 11th of last month, while here supervising a payment to certain Sisseton and Wahpeton Indians, I explained the provisions of this Senate bill to a number of your leading men, who met me here by request for that purpose, so that it might be discussed among

yourselves and that you would thus be the better prepared to consider the proposition understandingly when the question was formally presented to you in full council.

[3] Several of your people, who were in attendance at that conference, expressed themselves as opposed to the opening of any more of your reservation and stated that a delegation of your people had but recently returned from Washington where they had met the Indian Commissioner and Senator Gamble to whom they had protested against the opening of any more of your lands, and replying thereto I stated that I was simply advising you of the proposed opening, as I had been directed to do while here supervising that Sisseton and Wahpeton payment, and that, should I be directed to return and submit the question to you formally, it would be my duty to do so, and having been so directed to return here for this purpose has brought us together in council here today, and bear in mind that I am not here of my own volition but under instructions of the Secretary of the Interior.

My friends, this is the fifth time that I have negotiated with you for lands, and have been here so often with reference to the cession of lands, that my friend, High Pipe, has given me the name of "The man who bothers his friends for more land". But you all know full well that I do not want any of your land for my own use, but the Government needs all surplus lands of Indian reservations to provide homes for the rapidly increasing population of the United States.

Some of you may think that I come here too frequently with questions of this kind, but if you consider the matter in its true sense, you will appreciate the fact that it is better than a person, who from long and friendly association is acquainted with each and all of you and knows your needs, should be sent to present a

matter of this importance than a person of less knowledge of you people and the resources of your reservation.

I assure you that any proposition that I may at any time endeavor to have accepted by Indians is because I regard it for their [4] best interests.

This document which I hold in my hand is the Gamble bill referred to and I will now proceed to explain it so that you may all understand its provisions."

Inspector McLaughlin here reads and explains Seante bill 7379 Sixtieth Congress, 2nd Session, thus consuming one hour and then said:

"I have now explained the provisions of the bill so clearly that all present should understand it, and when considering the proposition you should not forget that the law, as defined by the Supreme Court, vests in Congress the power to open the surplus lands of Indian reservations without the consent of the Indians, and you are all aware of this power of Congress, it having been fully explained to you in previous negotiations of these past few years.

The question is now before you and I desire to hear from you regarding the proposed opening of that part of your reservation contemplated by the bill which I have read and explained. Now I would like to hear from you in regard to this matter.

Hollow Horn Bear:

"My friend, you have explained this bill to us and I think that the best way for us to do is to go to our homes and districts and talk this matter among ourselves and hold councils and we will then report to you what agreement we have reached among ourselves. We have not discussed this matter since you have been here last in council only among each one of us. It will be better for us to go home and talk over this matter and I want to ask our Agent to let us go home and discuss this question and

I want to ask him to let us dance for in that way we can get a great many more [5] to come to the council when there is a dance.

Supt. Kelly:

You have my permission to go to your homes and hold councils to discuss this matter but I do not think that it is well for you to hold this dance for this is a matter of great importance to you and I am sure that you would not do this question full justice if you were given to frivolity and amusement while you were discussing this question.

Inspector McLaughlin:

"My Friends, I do not think that you had better hold any dances while you are debating over this matter, as this is of great importance to you. I want you to go to your homes and districts and hold councils among yourselves and come to some agreement and meet me again soon and notify me what agreement you have reached. Let us now set a date when we are to meet again."

Hollow Horn Bear:

"My friend, I see that it was foolish of me to ask you to let us dance at our councils as we are in the habit of giving away things at our dances and should we dance while we were discussing this question we might want to give you this land."

Here the Indians assembled conferred among themselves with regard to setting a date when they would next meet Inspector McLaughlin and agreed that they should meet him on Monday, April 26, 1909.

Inspector McLaughlin:

"My friends, you tell me that you will meet me here again next Monday. We will not adjourn to meet here again next Monday morning at 10:00 o'clock."

Council adjourned at 4:15 P.M.

[6] Council reconvened Monday, April 26th, 1909, at 2:00 P.M. with about 250 Indians in attendance:

Inspector McLaughlin:

My friends, we are again assembled in council after an adjournment of four days which was granted at your request that you might discuss among yourself the question which I presented to you last Wednesday for your consideration, and having been discussing it among yourselves during our adjournment you are doubtless prepared to express yourselves regarding the proposed opening of that part of your reservation which I explained to you in our opening council and I would now be pleased to hear from you regarding same.

Hollow Horn Bear:

Now my friend whenever you make any negotiations with the Indians you have some subject for them to consider. Now we have something that we have been working ourselves tired discussing this question and we have come to some conclusion and we have come to tell you. You come here to talk about this land and I will tell you what they feel about giving any more land. They talk about letting you have the land that is north of the 10th Standard Parallel. The land that is in the eastern part of our reservation we do not want to let go. And the country that we can spare we want to have something to say about that. They say that they should get \$10.00 per acre for it. If there is any mineral land in the country north, it should be higher. If there is any coal lands in that, it should be higher. In selling those lands we want it to be in this way. They wish those two eastern tiers of [7] townships that they do not want to sell including the timber reserve to be allotted to the children. After the children are allotted and there is any more surplus land we want those men that are dead and entitled to land according to Section 8 of General Crook's treaty (Act of

March 2, 1889) to have this land. We think that those men are entitled to this land. And then as soon as some more children are born they should take allotments as soon as they are born. Of course whatever we accomplish the Secretary would have the money in his hands. I do not want that. Now in case these lands are sold they should have the payments made in three years. Also they do not want the minor children's money put away for them. About those lands that have been sold we want the money in cash so that we can have some money to live on and do some good with ourselves and our relations. Now there is something else that will help these people and I want to tell you. That is the grazing of cattle on our reservation. We do not want that. These cattle come here and they eat up all the grass that our cattle would have and of course our cattle do not have anything to eat and they starve. When these cattlemen are allowed to have their cattle on this reservation they are supposed to be on the unallotted land and not on the allotments. This is not so as they are on the allotments all the time and run at large, and the people do not want those foreign cattle on this reservation.

Now my friend, whatever we have put down here before you we want you to take to our Great Father and you will tell him that this is the way we wish to make this treaty and if he says alright we will make this treaty. This is our way and whenever anybody does us a favor we always remember him. Now we pray you to respect what we have said and that you will help us in that matter. [8] As I told you before we want the Great Father to know this so that he will understand what we want. We wish the Great Father to understand this thoroughly.

Ralph Eagle Feather:

Hollow Horn Bear has told you what the council has said but there is something that he has forgot and that is

what I want to tell you. You have come here to ask for a part of this land and tell us to discuss and hold councils and consider this matter. They have considered this matter and I want to tell you and this is what the people have requested to tell you. This is about sections eight and nine of General Crook's treaty (Act of March 2, 1889). Those sections say that as soon as that treaty was made all the people that were living at that time should have land. The second is this. There are many men that has families who have taken allotments and who have not got their benefits as provided in Section seventeen in that treaty. That as soon as the children become eighteen years of age they should get those benefits. That those who are eighteen years of age and have families and children, the Agent should give them work and they should receive some payment and they should also receive those allotment benefits so that they will be able to make their living.

We do not want to give up those two tiers of townships in the eastern part of Meyer County. Now about that land that is north of the 10th Standard Parallel, we are willing to sell that but we want to have something to say about it and we want it to be done exactly as we say it and after we have said it we do not want it to be changed some other way. Now you will see that this is done in the way that we want it and then we will give you this land and [9] make this treaty with a good heart. If this is not done we will not do anything until they do as we say.

Now in regard to the grazing permit we want the Commissioner and Secretary to see that those cattle are kept off the reservation. Our people cannot raise their cattle when there are so many of these foreign cattle here. We want this grazing permit business to be cut out and you will tell our Great Father this.

High Pipe:

Now my friend, I am not going to talk to you. I am going to talk to the Indians. (High Pipe then addressed the Indians)

Hollow Horn Bear:

There is another thing that I wanted to mention. About the surplus money that is coming from the Gregory County lands. Some of our people want cattle and some of them want cash. I think it could be arranged for those that want cattle to get cattle and those that want money to get their money.

David Dorion:

Now my friend, the Oak Creek people and some others of the Butte Creek district have considered the question that you put before them and they have told me to come here and tell you what they have said. These people are suffering a good deal with regard to their allotments. Some of them have been making mistakes and some of them have sold their lands. These people want to do something so that they will make their complaints. I will tell you one by one. The heads of families should have all the money to which they are entitled paid to them in full. Those persons that are now eighteen years of age should have the same benefits that those who were eighteen years of age at the time of the Crook Treaty. [10] They should also get the allotment payment. When we sell this land we do not want any of it to be sold as school land but it shall be sold the same as any other land. We want to say something in regard to the grazing permit. We do not like that. There are many people in the Butte Creek district that do not want those cattle on the reservation but they want the surplus money that is left from the sale of the Gregory County lands so that they will make a better living for themselves and for their children. This is all I want to say.

High Pipe then again addressed the Indians.

Little Grow:

My friend; there is something that I am going to say for the people in regard to this matter. This is what I want to say. The Great Father should appoint two of the Indians here to appraise this land. A man of my age cannot do very much and the Great Father knows this but I do not know why he has held up some of my children's money. There are some old men and women that are old and are not strong and they should not be held the same as the young men. They should not hold their money back. They should give them this money so that they will live better and provide for their children. Some of them have sold their dead children's land. They should have this money paid to them in their hands, because they are not able to do anything else. But if this is the law the Great Father has made for me it is alright. If he enforces that law on me I am not able to make my living. And the old people that live in the district that will be opened will then have something to make their living with and they will build houses and have something to eat.

[11] Sorrel Horse:

My friend, there is something that I want to speak to you. We used to have four chiefs here and some of them are dead but some are living. One of them is Two Strike and the second is He Dog. You say that you want some more of our land. You come from the Great Father's house and you are a wise man and you give us some good words. What I want to say is this. About this land that you have come to ask for we are willing to sell this land and let the white men come and build their houses and raise their crops. We want that money paid to us so that we may be able to buy houses and horses so that we may make our living. If this is the way the Great Father will

do there will not be any hungry people here. I have seen more of my people hungry and starving. My friend this is pretty hard. I suppose you have understood what they have said. I have said to them. This man is going to Washington and he is a good man and he will help us. I have seen my people eat cattle that have been dead for three or four days. They were starving and they had to do this. My friend I have not heard from our chiefs yet. They do not see you yet. These two chiefs can accomplish what you want to do. I want them to say about this land and what they say, it suits me alright.

Inspector McLaughlin:

My friends; I am very pleased to hear you express yourselves the way you have. I am pleased to note the common sense view that so many of you take in regard to the north half of your reservation as contemplated in the Gamble bill. I want to answer some of the statements made by your speakers so that it will be clearly and distinctly understood by you. [12] As to the price of the land which my friend, Hollow Horn Bear, demands \$10.00 per acre for, that is out of the question. It is true that the sale of your Gregory County lands together with the sale of your Tripp County lands have greatly enhanced the value of your other lands. The recent Acts passed by Congress for opening Indian reservations provides for the appraisal of the lands, and it is now the desire of the Commissioner and other officials of the Government that all lands opened for settlement shall be appraised by commissioners. What was known as the Kiowa and Comanche Pasture was opened in this way two years ago. A bill which was passed by Congress last year for the opening of the Fort Peck reservation provided for the opening in this way. The legislation opening Standing Rock and Cheyenne River reservations provides this system and, as I explained to you last

Wednesday, the Gamble bill provides for the opening of your reservation the same way. It provides that, after allotments have been made to all persons entitled thereto, which would include children born up to the completion of allotments, the surplus lands are to be appraised by three men appointed by the President for that purpose. One of these men is to be a member of the tribe. The second a representative of the Indian Bureau at Washington and the third a resident citizen of South Dakota. When these men are appointed they are to meet and appoint one of their number to act as chairman of the commission. This commission will then proceed to examine the land and classify same and appraise the land in 160 acre tracts, which is the area of a homestead entry of a white citizen. This commission will put a price on each 160 acre tract and submit this list to the Secretary of the Interior for his action, and the price fixed by them [13] when approved by the Secretary is the price that the entrymen will have to pay for their homesteads.

My friend, Hollow Horn Bear, also spoke of having the payment made in three years. That my friends would be impossible. Let me explain to you the workings of the government. There are three branches to our government, the executive, legislative and judicial. Congress and the Senate are the legislative branches of our government, and The President is the executive and he executes the laws enacted by Congress through the heads of the respective departments. When Congress enacts legislation it devolves upon The President to execute them through the several departments of the Government. This bill provides for payment in the same way as was done in your Gregory and Tripp County lands. The settler pays one-fifth of the price of the land when he enters it and the other four-fifths is divided in five annual payments. Some of the homesteaders would doubtless be able to

take advantage of the law which provides that when a settler has lived on his land for fourteen months continuously he has the privilege of paying in full and receive his patent. But many of the settlers will not have the money to take advantage of this law, and if they cannot pay out sooner they have the full five year period to make their payments.

As I stated to you in our first council, and all of you in that council fully understood me, the law, as defined by the Supreme Court, vests in Congress the power to "open" Indian reservations without consulting the Indians, but the Secretary of the Interior, Commissioner of Indian Affairs and other departmental officials, are opposed to such action without the Indians being fully advised of the proposed legislation, and this is why I have been sent here to explain to you people what is contemplated by the Gamble [14] bill, which I explained to you last Wednesday. Since our meeting of last Wednesday I have given this matter a great deal of study and thought, and have concluded that the tract north of the 10th Standard Parallel approximates about twenty-eight townships of land or about 645,000 acres. The two eastern tiers of townships in ranges twenty-six and twenty-seven, about 11 townships, contains about 253,000 acres, and the report on the Gamble bill, which includes both of these tracts, states that there are about 900,000 acres involved in the proposed opening. Upon examining the plans in the Allotting Agent's office, I find that the greater part of the lands in the north tract will be allotted when the selections already made have been allotted, thus covering about three-fourths of it or about 483,000 acres, which exclusive of the school sections will leave about 125,400 acres or about 780 homesteads of 160 acres each. You people are taking the more desirable lands in that part and this proposed opening will greatly

enhance the values of your land. You can readily see what the opening of Gregory and Tripp Counties has done for you. There is a sale of inherited land today in the office and I am greatly pleased to see the large number of buyers and the enormous prices that your lands are bringing. The opening of that part of your reservation will not only increase the value of the lands in that tract, but will also add a great deal to the value of the lands in your diminished reservation. There is some talk of a railroad coming west through Tripp County to the western boundary of that county, during the coming summer. I have no personal knowledge of such myself, but most every person in this section is speaking of it and expecting it, and with the opening provided by this bill, I have little doubt but that the railroad will go farther west in the near future. Should this [15] railroad come through, it will provide for you a market for your corn, hay, oats, cattle and whatever you will produce. It means that you will be able to get better prices for your products, for it will bring markets right to your doors. I am very much pleased to find the sentiment prevailing among you so favorable to opening a part of your reservation and especially so favorably thought of by the younger men. At the time of our agreements of 1903 and 1907 you were very reluctant to give up any of your land, but I perceive that you now fully appreciate the benefits you have derived from those openings. At one time I was a firm believer of keeping Indian reservations for the Indians themselves and the keeping out of white men except those attached to the agency. But I have changed my views in that respect, by observing that the sooner the Indian is gotten alongside of the white man, the sooner a material benefit is realized by him, as mixing with white men the Indian becomes more self reliant and industrious, thus profiting by the example of his industrious white neighbor.

In regard to those two tiers of townships in the eastern part of Meyer County I will say that the Secretary of the Interior and Commissioner of Indian Affairs do not favor the opening of that strip and will doubtless endeavor to have that part eliminated from the Gamble bill, but they will doubtless favor the opening of the tract lying north of the 10th Standard Parallel, and if opened to settlement, it will be appraised by a commission of three members, as I have heretofore explained, so that you will receive the price placed upon it at the time of the appraisement. I am not here to ask you to touch the pen or make any agreement at this time. This requirement has been discontinued since the Supreme Court defined the law that Congress had the power to open any Indian reservation [16] without the Indians' consent. But the President and the Secretary of the Interior and other departmental officials are opposed to any legislation unfair to the Indians being enacted and they will protest your interests, both as to the price of your land and the conditions of payment.

In regard to Section 17 of the Act of March 2, 1889, which provides for certain benefits for those who are 18 years of age and over at the date of The President's order directing allotments to be made, you are advised that the order for allotments on this reservation was dated June 22, 1893 and the Act of March 2, 1889, under which your allotments are made, provides that those 18 years old or over at the date of the President's order shall receive certain benefits. From this you will see that all the Secretary can do is to follow the law as it was enacted by Congress.

Another question which you brought up was in regard to the permit system for cattle grazing on your reservation. That is a matter not within my jurisdiction at this time. But in talking with your agent in reference to this, I

find that you have been deriving quite an annual revenue from the proceeds of this grazing system, about \$25,000 a year, or about \$5.00 per capita annually for several years past. With your Tripp County lands opened your pasturage is diminished but you will still have a large area in Meyer County. This bill cannot be enacted before the next session of Congress and not likely to become a law before next April or May and it would be six months later before the tract could be opened, so you will have the proceeds from your grazing permits for this summer and next summer. The land would doubtless not be opened until a year from next fall and you may rest assured that the Secretary of the Interior will see that no trouble comes to you from it and that he will direct [17] only what is for your best interests and welfare.

As I have said before I am very much pleased with the good sense displayed as expressed today by your speakers in your council. I hope that each and all of you fully understand that Congress having the power to open any Indian reservation can do so without the consent of the Indians or the concurrence of the Secretary of the Interior or other departmental official, and that should such legislation be enacted it would be the duty of the Secretary to execute the law as passed by Congress. But as the Secretary of the Interior and the Commissioner are opposed to the opening of the two tiers of townships in the eastern part of Meyer County, I am of the opinion that those townships will be dropped from the bill.

This is all that I have to say to you and I want to thank you for the very courteous manner that you have received me and the good sense displayed in the discussion of this question. I will be here for a few days preparing this report which will go to the office of the Secretary of the Interior and thence to the Commissioner's office and a copy will doubtless be sent to the

Senate. Whatever you have spoken here will appear in the minutes and read there and they will thus know your wishes. Should any of you wish to see me again in regard to this matter before I leave, I shall be glad to talk the matter over with you.

High Pipe:

My friend; We are Indians and this is our reservation for it belongs to us and we love it. We do not want to part with it for it belongs to us and to our children. I was a scout in the Great Father's company and I was a good soldier too. At that time they told me that the Indian should sleep sound for he was [18] in his own land and that he should be a good soldier. I want to tell you that this land belongs to us and if the Great Father wants to make a law that will take away this land from us, of course he can do it but we will have nothing to say about that. If he can make that law I want him to do it. This land belongs to us and we have explained it to you according our treaties. You have come here a good many times before and if the Great Father wants to make that law to take away our land why did you not stay at home.

Turning Bear:

My friend, this is the fourth time that we see you. Look at me. I am one of your treaty men. I have honored the Great Father and I am one that has always worked for the Great Father. Whenever there has been trouble and it was smoky, the agent sends me to get the people that are making trouble and I get them. I have helped the Great Father in every way that I could. But now I do not think that this law that he is going to make is good. He wants to take our land without making a treaty with us. This is what I do not believe in. We want you to go back to the Great Father and tell him that this land is ours and if we do not get what we want we will not touch the pen or make the treaty.

Dog Trail:

My friend I want to tell you something and I want you to listen. The Great Father says that the Indian and the white man should be raised together on that land. The Great Fathers says that it will be better for the Indian when the white man comes to live among us. I do not believe this. The Indian is better among himself. I do not believe the treaties that have been made. The only one that I believe in is the Black Hills Treaty.

[19] Inspector McLaughlin:

My friends, I am not suprised to hear the older men of the reservation express themselves as they have for I know that reservations are very dear to the hearts of the old Indians, and that they are very reluctant to part with any of their lands. But you must take into consideration that the white men are becoming very numerous and their families increasing and it is the aim of the Government to provide homes for them. The population of this country is increasing very rapidly and the Government needs all unoccupied lands upon which incoming settlers may make a living. Every Congressman and Senator is being constantly importuned by their constituents to open the surplus lands of Indian reservations. They are being importuned to open even the forest reserves and other Government reserves and I do not believe that there will be any surplus Indian lands in the United States ten years from now. Nearly all of you have allotments and each of you have enough land to make a good living from. And the time is coming, and will soon arrive, when you will be thrown upon your own resources to make your living alongside the white man. The lands that you are selling now are bringing you a good price. You have on deposit over \$400,000 from the proceeds of the sale of Gregory County lands, and the recent opening of Tripp County will increase the values of your lands ten

fold in the diminished part of your reservation. I know it is very difficult for the older Indians to understand that they must part with their surplus lands, and for that reason I am very much pleased to see the sentiment in this respect which prevails among the younger men as evidenced here in our councils.

All that you have said has been taken down by the stenographer and the minutes of our council will go forward with my [20] report to the Secretary of the Interior, with reference to the purpose opening, and in which I will mention certain conditions existing on your reservation as observed by me during my past two weeks sojourn here, and you may rest assured that the Secretary of the Interior and the Commissioner of Indian Affairs will do what is just and best for each and all of you.

(Council then adjourned at 4:14 P.M., but Inspector having told the Indians, prior to adjournment, that any of them desiring to see him in relation to the matter could call upon him at any time while he remained at the Agency, whereupon a party of young men met him by appointment at 7:00 P.M., and the following is a transcript of the stenographic notes thereof.)

Alex Desersa: (41 years of age.)

My friend, we have been having councils for several days and we are pretty tired but I will say a few things to you. Our grand fathers and our fathers have their customs and their way of living and we have followed those customs and we know what the results are. We have found that those customs were alright a number of years ago but they are not any good any more. Many times our grand fathers and our fathers and their children have been hungry and starving and we do not want to follow in their footsteps, for we do not want our children to be hungry and starving. Now I wish to say a few words in regard to that portion of land that will be opened

according to that bill which you have presented to us for discussion. All of us people that live in the Butte Creek district will be included in that part of the land that will be opened up. We know that when this is done we will have many white men as neighbors and it will become necessary for us to do as they do or we will not be able to make living for [21] our families. We will have to work or our children will starve to death in the future. We are willing for the white man to come in among us so that that we may be able to learn from him his methods of living and his ways of earning and we wish to follow his example. We want to raise the same crips that this white man does. Our children are not attending schools and when they grow older they will have some eduction so that when the time comes for them to go to work they will be prepared to make their living with the white men. I want to tell you another thing so that when you go back to Washington you will tell the Great Father what we need to prepare ourselves to compete with the white man. We are organizing an Agricultural Association in the Butte Creek district and we have now over forty members. The purpose of this association is to farm their lands and raise stock, and dispose of what products they have raised on their farms. This association was suggested to us by Inspector Phillips and we are trying to follow his advice. Now what we want you to report is this. When we have started this association we want the Department to help us a little to make it a success. Our delegation that went to Washington asked that the surplus Gregory County monies be expended for the purchase of cattle. Now that may be alright for some of them but we want this money to be given to us in cash or that the Department buy farming implements for us to use. We want to get started in this work so that when the time comes we will be able to work right alongside of the

white man. We want you to tell the Great Father that we people that are living in the district to be opened are in favor of it. We are also satisfied to have the three men appraise this land and we know that we will get the best price for it.

[22] William Flood: (28 years of age.)

I would like to say something. I wish to say that there is something that I am ashamed of my manhood. I have lived like the rest of the Indians although I have been to school. Whenever you have come here you have had an interpreter who has done most of your interpreting. He is now dead. That was my father, Thomas Flood. He was a bright man and he followed the ways of the white man and always earned a good living. Now I have turned about and I am going to use my full manhood. I know now that the way we have been living is not the best way so I will turn about and do what the white man does and make my own living for my family. I am in that part of the land that will be opened and I am in favor of it for I think that it will be best for us. The white man will come among us and he will be a good example for us. He will show us the way to get the best from our farms. I want to tell you something about that agricultural association that Alex Desersa spoke about. This association that we are organizing is what I believe will do more for us in teaching us how to make our living than any other way. I hope that there will soon be a lot of such societies on the reservation. We of the younger men see that the way of the old Indian is past and that we must do something if we do not want to starve. Our children are growing up and we want them to be able to make their living alongside of the white man. I want to be an example for my children so that when they grow up they will be able to make their living and not sit around and wait for ration day. We want our our agent to watch our

association and report to the Great Father if we are doing any good and we would like to have the department help us a little in our efforts.

[23] Henry Stranger Horse: (37 years of age.)

I want to say a few things for myself. I am one of the young men that have been in favor of this opening of the north part of our reservation. We have been discussing this question among ourselves in our councils. And I want to tell you that all the people from the Butte Creek district are in favor of this land. We want the white man to come among us and show us the way to civilization. When we had the council the other day I spoke to them and I told them that I was sent away to school and that when I came back and tried to do what I had learned at that school they laughed at me and soon I was like one of them. I wore my blanket with them. But I have found that I was often hungry and my family was starving so I told them that I was going to throw off my blanket and dress up again like a white man and go to work and make us of the learning that I have. I do not want my children to be hungry and starving like I have. I want them to be able to make their living. Some of the Indians have been making complaints about selling this land. They do not know what is good for them. I told them in what way we would have more power than we have now. They want to be like white men and have the right to vote and in this way they will have more power. Of course there are many things that we have to learn before we can become like white men. The first thing we have to learn is to be able to make our living for ourselves and we will never do so as long as we keep together as Indians. There is another thing that I want to say. In regard to the traders' stores. They charge high prices for the things that they sell. Now when this tract is opened there will be many stores and we will be able to buy a great deal more cheaper than

what we are doing. They will then get full value of their money. This land will be [24] thrown open and many white men will come in there and they will show us the way to make a living and we will be able to work for them. They will raise gardens and other crops and they will be a good example for us. I think we have started on the right way when we organized that agricultural association. In this way we will help one another and when one cannot do anything for himself the others will help him. And we want you to tell the Great Father of this association and we want the Department to help us in giving some farming implements. We want that surplus Gregory County money to be given to us so that we may buy these farming implements. Many of our people are selling their inherited land. I think that is would be best if they should get that money so that they will live and help themselves. A good many of our men drink whiskey. This is not good for them. Those who have entered our association have said that they will not use it. We want to be good examples to the other Indians so that they will see that our way of living is the best way. That is all I want to say.

George Whirlwind Soldier:

I want to say a few words to you. These young men have talked to you and have told you what they wish to do. I have been working for the Great Father as assistant farmer for \$10 a month for the past thirteen years. The salary was small but the knowledge that I have learned is very valuable to me. I am now able to go and make my living anywhere. I take whatever work there comes before me and the people that I live among abuse me for working but I think that as they do not earn my living for me I do not bother with what they say. I am in favor of opening that part of our reservation as it will bring the Indians in close contact with the whites and this will give

them good examples. [25] For my part I will be glad to see the white man come here to make his home and cultivate this land for we will then be able to see how he does it and we will learn from him. When the white settlers comes the first thing that he does is to build his house and then he goes to work right away and starts farming. This will be a good example for our Indians. It will be a great benefit to them. It will show them how to make their own living.

Joseph Little Brave:

Our Black Pipe people have met in their council and they have appointed three of us to come to the council here and tell you what we feel about the opening of this land. But in the council there were so many of them that wanted to speak and all they did was to abuse one another that I thought I would tell you of our wishes after they were through. The Black Pipe people are in favor of this opening of the north part of our reservation. The greater part of the Black Pipe people live in that portion to be opened. They want the white man to come in and live among them so that they will follow his example and know how to make their living. Even some of them spoke that they wished the entire reservation be thrown open for settlement. We want to live like white men. The day of the Indian is past. But there is one thing that they told me to tell you and that is this. They want the Great Father to give them their minor children's monies so that they will be able to build better houses to live in and to buy horses and farming implements. They also say that when they sell their inherited land they should be paid the money instead of having it held for them. In this way they will be able to put the money in the bank that they do not need and they will use [26] the balance of building their houses and buying what things they need. The Black Pipe people are industrious

and they are raising crops and have many cattle and this is the reason that they wish the white man to come and live among them so that they will follow their example. I want you to tell the Great Father of our wishes when you get to Washington and we want him to help us.

Andrew Long Warrior:

The Black Pipe people have come here before you to tell you what they want. I am not going to talk about the old treaties for that is past. I am going to talk about the one that we are going to have. We are willing to have the north part of our reservation opened up. We will be glad to see the white man come among us and farm this land so that we will know how this is done. He will raise crops and he will have cattle and we will learn from him how these things are done. Most of our people are living in the part that will be opened for settlement and they are glad to see it so. But there is one thing that I want to tell you. The Great Father should allow us to have our minor children's money. We need this money so that we may be able to improve our houses and buy farming implements. Also those children who have become eighteen years of age, they should get what money is coming to them. Also the money that we are getting from the sale of our inherited land. We should have that. It should be paid to us directly so that it will do us some good. As it is now it is put away and we have been getting but very little of it and of course it has not done us much good. We want to get all of it and use it. We want our words to go before the Great Father and to the Senate so that they will know what we feel about this matter. That is all [27] I want to say.

James Stands for them:

My friend, I have not much to say except that I have not much to say except that I and the others fully agree to what these young men have told you and we want you

to go to Washington and present our case for us. You will tell them that we need our minor children's monies so that we may build better houses and raise crops on our farms. This is what the Black Pipe people want.

[#35]

(Enactment of S. 183, 61st Cong. 2d Sess.)

[Act of May 30, 1910 ch. 260, 36 Stat. 448]

CHAP. 260.—An Act To authorize the sale and disposition of a portion of the surplus and unallotted lands in Mellette and Washabaugh counties in the Rosebud Indian Reservation in the State of South Dakota, and making appropriation and provision to carry the same into effect.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed, as hereinafter provided, to sell and dispose of all that portion of the Rosebud Indian Reservation, in the State of South Dakota, lying and being within the counties of Mellette and Washabaugh, south of the White River, and being described and bounded as follows: Beginning at a point on the third guide meridian west where the township line between townships thirty-nine and forty intersects the same, thence north along said guide meridian to the middle of the channel of White River, thence west along the middle of the main channel of White River to the point of intersection with the line dividing the Rosebud and the Pine Ridge Indian reservations, thence south along the boundary line between said reservations to the township line separating townships thirty-nine and forty, thence east along said township line to the place of beginning, except such portions thereof as have been or may be hereafter allotted to Indians or otherwise reserved, and except lands classified as timber lands: *Provided*, That any Indians to whom allotments have been made on the tract to be ceded may, in case they elect to do so before said lands are offered for

sale, relinquish same and select allotments in lieu thereof on the diminished reservation: *And provided further*, That the Secretary of the Interior may reserve such lands as he may deem necessary for agency, school, and religious purposes, to remain reserved as long as needed and as long as agency, school, or religious institutions are maintained thereon for the benefit of said Indians: *And provided further*, That the Secretary of the Interior is hereby authorized and directed to issue a patent in fee simple to the duly authorized missionary board, or other authority, of any religious organization heretofore engaged in mission or school work on said reservation for such lands thereon (not included in any townsite hereinafter provided for) as have heretofore been set apart to such organization for mission or school purposes.

SEC. 2. That the lands shall be disposed of under the general provisions of the homestead and town-site laws of the United States, and shall be opened to settlement and entry by proclamation of the President, which proclamation shall prescribe the manner in which the lands may be settled upon, occupied, and entered by persons entitled to make entry thereof, and no person shall be permitted to settle upon, occupy, or enter any of said lands except as prescribed in such proclamation: *Provided*, That prior to said proclamation the allotments within the portion of the said Rosebud Reservation to be disposed of as prescribed herein shall have been completed: *Provided further*, That the rights of honorably discharged Union soldiers and sailors of the late civil and Spanish wars or Phillippine insurrection as defined and described in sections twenty-three hundred and four and twenty-three hundred and five of the Revised Statutes as amended by the Act of March first, nineteen hundred and one, shall not be abridged.

SEC. 3. That before any of the land is disposed of, as hereinafter provided, and before the State of South Dakota shall be permitted to select or locate any lands to which it may be entitled by reason of the loss of sections sixteen or thirty-six, or any portions thereof, by reason of allotments thereof to any Indian or Indians, the Secretary of the Interior is authorized to reserve from said lands such tracts for town-site purposes as in his opinion may be required for the future public interests, and he may cause same to be surveyed into lots and blocks and disposed of under such regulations as he may prescribe; and he is hereby authorized to set apart and reserve for school, park, and other public purposes not more than ten acres in any town-site, and patents shall be issued for the lands so set apart and reserved for school, park, and other public purposes to the municipality legally charged with the care and custody of lands donated for such purposes. The purchase price of all town lots sold in town-sites, as hereinafter provided, shall be paid at such time and in such installments as the Secretary of the Interior may direct, and he shall cause not more than twenty per centum of the net proceeds arising from such sales to be set apart and expended under his direction in the construction of schoolhouses or other public buildings or in improvements within the town-sites in which such lots are located. The net proceeds derived from the sale of such lots and lands within the town-sites as aforesaid, less the amount set aside to aid in the construction of schoolhouses or other public buildings or improvements, shall be credited to the Indians, as hereinafter provided.

SEC. 4. That the price of said lands entered as homesteads under the provisions of this Act shall be fixed by appraisement, as herein provided. The Presi-

dent shall appoint a commission to consist of three persons to classify, appraise, and value all of said lands that shall not have been allotted in severalty to said Indians, or reserved by the Secretary of the Interior or otherwise disposed of, and excepting sections sixteen and thirty-six or other lands which may be selected in lieu thereof by the State of South Dakota, in each of said townships, said commission to be constituted as follows: One resident citizen of the State of South Dakota, one representative of the Interior Department, and one person holding tribal relations with said tribe of Indians. That within twenty days after their appointment the said commissioners shall meet and organize by the election of one of their number as chairman. The said commissioners shall then proceed to personally inspect, classify, and appraise, in one hundred and sixty acre tracts each, all of the remaining unallotted lands embraced within that portion of the reservation described in section one of this Act. In making such classification and appraisement said lands shall be divided into the following classes: First, agricultural land of the first class; second, agricultural land of the second class; third, grazing land; fourth, timber land; fifth, mineral land, if any, but the mineral and timber lands shall not be appraised: *Provided*, That timber lands may be classified without regard to acreage: *And provided further*, That all lands classified as timber lands shall be reserved for the use of the Rosebud Indians. That said commissioners shall be paid a salary of not to exceed ten dollars per day each while actually employed in the inspection, classification and appraisement of said lands, and necessary expenses exclusive of subsistence to be approved by the Secretary of the Interior, such inspection, classification and appraisement

to be completed within six months from the date of organization of said commission.

SEC. 5. That said commission shall be governed by regulations prescribed by the Secretary of the Interior; and after the completion of the classification and appraisement of all of said lands the same shall be subject to the approval of the Secretary of the Interior.

SEC. 6. That the price of said lands disposed of under the homestead laws shall be paid in accordance with rules and regulations to be prescribed by the Secretary of the Interior upon the following terms: One-fifth of the purchase price to be paid in cash at the time of entry and the balance in five equal annual installments, to be paid in two, three, four, five, and six years, respectively, from and after the date of entry. In case any entryman fails to make the annual payments, or any of them, when due, all rights in and to the land covered by his entry shall cease, and any payments theretofore made shall be forfeited and the entry canceled, and the lands shall be again subject to entry under the provisions of the homestead law at the appraised price thereof: *And provided*, That nothing in this Act shall prevent homestead settlers from commuting their entries under section twenty-three hundred and one, Revised Statutes, by paying for the land entered the appraised price, receiving credit for payments previously made. In addition to the price to be paid for the land, the entryman shall pay the same fees and commissions at the time of commutation or final entry as now provided by law where the price of land is one dollar and twenty-five cents per acre, and when the entryman shall have complied with all the requirements and terms of the homestead laws as to settlement and residence and shall have made all the required payments aforesaid he shall be entitled to a patent for the lands

entered: *And provided further*, That all lands remaining undisposed of at the expiration of four years from the opening of said lands to entry may, in the discretion of the Secretary of the Interior, be reappraised in the manner provided for in this Act.

SEC. 7. That from the proceeds arising from the sale and disposition of the lands aforesaid, exclusive of the customary fees and commissions, there shall be deposited in the Treasury of the United States, to the credit of the Indians belonging and having tribal rights on the said reservation, the sums to which the said tribe may be entitled, which shall draw interest at three per centum per annum; that the moneys derived from the sale of said lands and deposited in the Treasury of the United States to the credit of said Indians shall be at all times subject to appropriation by Congress for their education, support, and civilization.

SEC. 8. That sections sixteen and thirty-six of the land in each township within the tract described in section one of this Act shall not be subject to entry, but shall be reserved for the use of the common schools and paid for by the United States at two dollars and fifty cents per acre, and the same are hereby granted to the State of South Dakota for such purpose, and in case any of said sections, or parts thereof, are lost to said State by reason of allotments thereof to any Indian or Indians, or otherwise, the governor of said State, with the approval of the Secretary of the Interior, is hereby authorized, within the area described in section one of this Act, to locate other lands not otherwise appropriated, which shall be paid for by the United States as herein provided, in quantity equal to the loss, and such selections shall be made prior to the opening of such lands to settlement: *Provided*, That in any event not more than two sections shall be granted to

the State in any one township, and lands must be selected in lieu of sections sixteen or thirty-six, or both, or any part thereof, within the township in which the loss occurs, except in any township where there may not be two sections of unallotted lands, in which event whatever is required to make two sections may be selected in any adjoining township.

SEC. 9. That there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of not more than one hundred and twenty-five thousand dollars, or so much thereof as may be necessary, to pay for the lands granted to the State of South Dakota, as provided in section eight of this Act. And there is hereby appropriated the further sum of thirty-five thousand dollars, or so much thereof as may be necessary, for the purpose of making the appraisal and classification provided for herein: *Provided*, That the latter appropriation, or any further appropriation hereafter made for the purpose of carrying out the provisions of this Act, shall be reimbursed to the United States from the proceeds received from the sale of the lands described herein or from any money in the Treasury belonging to said Indian tribe.

SEC. 10. That the lands allotted, those retained or reserved, and the surplus land sold, set aside for town-site purposes, granted to the State of South Dakota, or otherwise disposed of, shall be subject for a period of twenty-five years to all the laws of the United States prohibiting the introduction of intoxicants into the Indian country.

SEC. 11. That nothing in this Act contained shall in any manner bind the United States to purchase any portion of the land herein described, except sections sixteen and thirty-six, or the equivalent in each township, or to dispose of said land except as provided

herein, or to guarantee to find purchasers for said lands or any portion thereof, it being the intention of this Act that the United States shall act as trustee for said Indians to dispose of the said lands, and to expend and pay over the proceeds received from the sale thereof only as received and as herein provided: *Provided*, That nothing in this Act shall be construed to deprive the said Indians of the Rosebud Indian Reservation of any benefits to which they are entitled under existing treaties or agreements not inconsistent with the provisions of this Act.

Approved, May 30, 1910.

[#35A]

(Legislative History of S. 183)

[45 Cong. Rec. 295 (1909-1910)]

Rosebud Reservation: bills for sale and disposition of surplus and unallotted lands in (see bills S. 183; H. R. 12437).

[45 Cong. Rec. 2 (1909-1910)]

S. 183—To authorize the sale and disposition of a portion of the surplus and unallotted lands in Mellette and Washabaugh counties in the Rosebud Indian Reservation, in the State of South Dakota, and making appropriation and provision to carry the same into effect.

Reported with amendments (S. Report 68) 668.—Debated 905, 958, 1012, 1013, 1065-1071, 1073, 1075.—Passed Senate 1075.—Referred to House Committee on Indian Affairs 1215.—Reported with amendment (H. R. Report 429) 1752.—Debated 5456-5473.—Amended and passed House 5473.—Senate disagrees to House amendments and asks for a conference 5483.—House insists on its amendments and agrees to conference 5538.—Conference appointed 5483, 5538.—Conference report made and agreed to in Senate 6324-6326.—Conference report (H. R. Report 1368) made in House 6379-6381.—Conference report debated and agreed to in House 6415, 6416, 6436, 6437.—Examined and signed 6496, 6517.—Approved by the President [Public, No. 194] 7129.

[45 Cong. Rec. 668 (1910)]

Mr. GAMBLE, from the Committee on Indian Affairs, to whom were referred the following bills, reported them severally with amendments and submitted reports thereon:

A bill (S. 183) to authorize the sale and disposition of a portion of the surplus and unallotted lands in the Rosebud Indian Reservation, in the State of South Dakota, and making appropriation and provision to carry the same into effect (Report No. 68); and

[45 Cong. Rec. 905 (1910)]

BILLS PASSED OVER.

* * *

The Secretary. A bill (S. 183) to authorize the sale and disposition of a portion of the surplus and unallotted lands in the Rosebud Indian Reservation, in the State of South Dakota, and making appropriation and provision to carry the same into effect;

[45 Cong. Rec. 958 (1910)]

LANDS IN ROSEBUD INDIAN RESERVATION.

The bill (S. 183) to authorize the sale and disposition of a portion of the surplus and unallotted lands in the Rosebud Indian Reservation, in the State of South

Dakota, and making appropriation and provision to carry the same into effect, was announced as the next business in order.

Mr. SMOOT. Let the bill go over.

The PRESIDING OFFICER. Under objection, the bill will be passed over.

[45 Cong. Rec. 1012-1013 (1910)]

LANDS IN ROSEBUD INDIAN RESERVATION.

The bill (S. 183) to authorize the sale and disposition of a portion of the surplus and unallotted lands in the Rosebud Indian Reservation, in the State of South Dakota, and making appropriation and provision to carry the same into effect, was announced as the next business in order.

Mr. PENROSE. I ask that the bill may go over, and also the next one on the calendar.

Mr. GAMBLE. Mr. President, this is the fourth time this bill has been reached in the regular call of the calendar. When it was first reached there were certain amendments to the bill, the report was not here, and it was necessarily passed over. Yesterday and the day before I was unavoidably absent from the Senate and could not be here.

This and the succeeding bill are matters of importance to the people of our State and to the people of the United States. It has been favorably recommended by the department. The bill, after it was introduced, was submitted to the Indian tribe, and it is satisfactory to them. It is of the highest importance, we feel, not only to the Indian tribe but to the people of the State,

and especially of that section of the State, that the bill shall be considered.

Mr. PENROSE. I made the request at the suggestion of several Senators who are unable to be in the Chamber. I shall not persist in my opposition if the Senator will let the bill go over to-day, and when it comes up to-morrow I will not oppose it. Let the next bill on the calendar also go over.

The VICE-PRESIDENT. The bill will go over without prejudice.

[45 Cong. Rec. 1065-1071 (1910)]

ROSEBUD INDIAN RESERVATION LANDS.

The bill (S. 183) to authorize the sale and disposition of a portion of the surplus and unallotted lands in the Rosebud Indian Reservation in the State of South Dakota, and making appropriation and provision to carry the same into effect, was considered as in Committee of the Whole.

The VICE-PRESIDENT. The bill has been read, but there are amendments reported from the Committee on Indian Affairs.

Mr. KEAN. Is this the bill containing an appropriation of \$415,000?

Mr. GAMBLE. No; this is not the bill which was under consideration on two occasions at the present session. This is another bill, but I do not understand that it has been read. The bill to which the Senator from New Jersey calls attention was read, but this bill has not been read.

The VICE-PRESIDENT. The Senator from South Dakota is correct in his statement. The bill will be read.

The Secretary read the bill, which had been reported from the Committee on Indian Affairs with Amendments.

The first amendment of the Committee on Indian Affairs was, in section 1, page 1, line 7, after the word "point." to strike out "on the state line between the States of South Dakota and Nebraska where range line 25 west of the sixth principal meridian intersects the same, thence running west on said state line to a point where the range line between ranges 26 and 27 intersect the said state line, thence north on said range line between ranges 26 and 27 to a point where the same intersects the tenth standard parallel north, thence west on said tenth standard parallel north to a point where the same intersects the western boundary line of the Rosebud Indian Reservation, thence north on the western boundary line of the Rosebud Indian Reservation to a point in the center of the main channel of the White River, thence easterly along the center of the main channel of said White River to a point where range line 25 west of the sixth principal meridian intersects the same, thence south on said range line 25 west of the sixth principal meridian," and insert "on the third guide meridian, west, where the township line between townships 39 and 40 intersects the same; thence running west on said township line to a point where the same intersects the boundary line between the Rosebud and Pine Ridge Indian reservations; thence north on the boundary line between said reservations to a point where the same intersects the center of the main channel of the White River; thence in an easterly direction along the center of the main channel of said White River to a point where the third guide meridian,

west, intersects the same; thence south on said third guide meridian, west," so as to read:

That the Secretary of the Interior be, and he is hereby, authorized and directed, as hereinafter provided, to sell and dispose of all that portion of the Rosebud Indian Reservation in the State of South Dakota lying and being within the following described boundaries, to wit: Commencing at a point on the third guide meridian, west, where the township line between townships 39 and 40 intersects the same; thence running west on said township line to a point where the same intersects the boundary line between the Rosebud and Pine Ridge Indian reservations; thence north on the boundary line between said reservations to a point where the same intersects the center of the main channel of the White River; thence in an easterly direction along the center of the main channel of said White River to a point where the third guide meridian, west, intersects the same; thence south on said third guide meridian, west, to the place of beginning, etc.

The amendment was agreed to.

The next amendment was, in section 3, page 5, line 6, after the word "the," to strike out "Indian Bureau" and insert "Interior Department;" in line 11, after the word "empowered." to insert "to select such clerks and assistants at such compensation;" in line 16, after the word "within," to strike out "each" and insert "that portion of said;" in line 22, before the word "land," to insert "and timber;" in the same line, after the word "appraised," to insert "*Provided*, That the timber lands shall be classified without regard to acreage: *And provided further*, That all land classified as timber lands shall be reserved for the use of the Rosebud Indians;" and on page 6, after the word "expenses," at the end

of line 3, to insert "exclusive of subsistence," so as to make the section read:

SEC. 3. That the price of said lands entered as homesteads, under the provisions of this act shall be fixed by appraisement as herein provided. The President of the United States shall appoint a commission to consist of three persons to inspect, appraise, and value all of said lands that shall not have been allotted, in severalty to said Indians, or reserved by the Secretary of the Interior or otherwise disposed of, and excepting sections 16 and 36 in each of said townships, said commission to be constituted as follows: One resident citizen of the State of South Dakota, one representative of the Interior Department, and one person holding tribal relations with said tribe of Indians. That within twenty days after their appointment the said commissioners shall meet and organize by the election of one of their number as chairman. The said commission is hereby empowered to select such clerks and assistants at such compensation as the Secretary of the Interior may approve. The said commissioners shall then proceed to personally inspect, classify, and appraise, in 160-acre tracts each, all of the remaining lands embraced within that portion of said reservation as described in section 1 of this act. In making such classification and appraisement said lands shall be divided into the following classes: First, agricultural land of the first class; second, agricultural land of the second class; third, grazing land; fourth, timber land; fifth, mineral land, if any, the mineral and timber land not to be appraised: *Provided*, That the timber lands shall be classified without regard to acreage: *And provided further*, That all land classified as timber lands shall be reserved for the use of the Rosebud Indians. That said commis-

sioners shall be paid a salary of not to exceed \$10 per day each while actually employed in the inspection and classification of said lands, and necessary expenses, exclusive of subsistence, to be approved by the Secretary of the Interior; such inspection and classification to be completed within six months from the date of organization of said commission. That when said commission shall have completed the classification and appraisement of all of said lands the same shall be subject to the approval of the Secretary of Interior.

The amendment was agreed to.

The next amendment was, in section 4, page 7, line 20, after the word "prescribe," to insert "and patents therefor shall be issued to the purchasers," so as to read:

And it is further provided, That any lands remaining unsold after said lands have been open to entry for seven years may be sold to the highest bidder for cash without regard to the prescribed price thereof fixed under the provisions of this act, under such rules and regulations as the Secretary of the Interior may prescribe, and patents therefor shall be issued to the purchasers.

The amendment was agreed to.

The next amendment was, in section 5, page 8, line 3, after the words "Revised Statutes," to insert "and he is hereby authorized to set apart and reserve for school, park, and other public purposes not more than 10 acres in any town site, and to issue patents for such reserved tracts to the municipality legally charged with the care and custody of lands donated for such purposes. And the Secretary of the Interior shall cause not more than 20 per cent of the net proceeds arising from such sales to be set apart and expended under his direction in

aiding the construction of schoolhouses or other buildings or improvements in the town sites in which such lots are located;" and in line 14, after the word "lands," to insert "less the amount set aside to aid in the construction of schoolhouses or other buildings or improvements," so as to make the section read:

SEC. 5. That the Secretary of the Interior is authorized to reserve from said lands such tracts for town-site purposes as in his opinion may be required for the future public interests, and he may cause the same to be surveyed into blocks and lots and disposed of under such regulations as he may prescribe, in accordance with section 2381 of the United States Revised Statutes; and he is hereby authorized to set apart and reserve for school, park, and other public purposes not more than 10 acres in any town site, and to issue patents for such reserved tracts to the municipality legally charged with the care and custody of lands donated for such purposes. And the Secretary of the Interior shall cause not more than 20 per cent of the net proceeds arising from such sales to be set apart and expended under his direction in aiding the construction of schoolhouses or other buildings or improvements in the town sites in which such lots are located. The net proceeds derived from the sale of such lands, less the amount set aside to aid in the construction of schoolhouses or other buildings or improvements, shall be credited to the Indians as hereinafter provided.

The amendment was agreed to.

The next amendment was, in section 7, page 9, line 8, before the word "cents," to strike out "one dollar and twenty-five" and insert "two dollars and fifty;" in line 14, after the word "not," to strike out "occupied"

and insert "otherwise appropriated;" and in line 19, after the word "settlement," to insert the following proviso.

Provided further, That in any event not more than two sections shall be granted to the State in any one township, and lands must be selected in lieu of sections 16 or 36, or any part thereof, within the township in which the loss occurs.

So as to make the section read:

SEC. 7. That sections 16 and 36 of the land in each township within the tract described in section 1 of this act shall not be subject to entry, but shall be reserved for the use of the common schools and paid for by the United States at \$2.50 per acre, and the same are hereby granted to the State of South Dakota for such purpose, and in case any of said sections, or parts thereof, are lost to said State by reason of allotments thereof to any Indian or Indians, or otherwise, the governor of said State, with the approval of the Secretary of the Interior, is hereby authorized, within the area described in section 1 of this act, to locate other lands not otherwise appropriated, not exceeding two sections in any one township, which shall be paid for by the United States as herein provided, in quantity equal to the loss, and such selections shall be made prior to the opening of such lands to settlement: *Provided further,* That in any event not more than two sections shall be granted to the State in any one township, and lands must be selected in lieu of sections 16 or 36, or any part thereof, within the township in which the loss occurs.

The amendment was agreed to.

The next amendment was, in section 8, page 10, line 2, before the word "thousand," to strike out "sixty-

five" and insert "one hundred and twenty-five;" and in line 6, before the word "thousand," to strike out "twenty-five" and insert "thirty-five," so as to read:

SEC. 8. That there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of not more than \$125,000, or so much thereof as may be necessary, to pay for the lands granted to the State of South Dakota, as provided in section 7 of this act. And there is hereby appropriated the further sum of \$35,000, or so much thereof as may be necessary, for the purpose of making the appraisal and classification and allotments provided for herein.

The amendment was agreed to.

The next amendment was, on page 11, after line 3, to insert as a new section the following:

SEC. 10. That the lands allotted, those retained or reserved, and the surplus lands sold, set aside for town-site purposes, or granted to the State, or otherwise disposed of, shall be subject for a period of twenty-five years to all the laws of the United States prohibiting the introduction of intoxicants into the Indian country.

The amendment was agreed to.

Mr. GORE. Mr. President, I offer an amendment to section 2 of the bill. I hope the Senator from South Dakota [Mr. Gamble] will accept the amendment.

The VICE-PRESIDENT. The amendment proposed by the Senator from Oklahoma will be stated.

The Secretary. It is proposed to add at the close of section 2 the following words:

Provided, That applicants to enter said lands shall be allowed to forward their applications by registered mail to the authorities of the local land

office under such rules and regulations as the Secretary of the Interior may prescribe.

Mr. GORE. Mr. President, I hope the Senator from South Dakota will find himself in a situation to accept this amendment. I offer it for this reason: I know something of these openings, especially when lands are opened by lottery. I went to Oklahoma during one of these lotteries. If everybody who attended the drawing should be successful, of course there would be no complaint; but from 10 to 20 people are compelled to attend to every one who is successful in the lottery. It is a great and unnecessary inconvenience, and besides it is an enormous expense; it subserves no public purpose; and it practically disqualifies everybody who is not able to make the trip to the local land office. For this reason, I hope the amendment will be adopted.

Mr. GAMBLE. Mr. President, a different method of land openings has been adopted during recent years, requiring registration at adjacent points to the lands to be opened. This bill follows the usual course in all the land-opening bills. The lands are to be opened by proclamation of the President under such rules and regulations as the Secretary of the Interior may prescribe. It is the judgment of the department that this manner of opening is wise and safe; that it leads to good results, and avoids the difficulties, the dangers, and the violent acts that have heretofore occurred in land openings without these restrictions.

I doubt whether the amendment offered by the Senator from Oklahoma [Mr. Gore] would bring any desirable result. If applications could be filed by registered mail at local land offices, the land office would be simply overwhelmed by applications from all over the United States; they would be limitless and put a burden upon the department that it seems to me

would be unnecessary. Of course I should be glad to comply with the Senator's wishes, but as these rules have been adopted, have been followed, and have worked well, I do not believe it would be wise to hastily invade the regular procedure by adopting such a proposition without consideration at this time. I therefore do not feel that I ought to accept the amendment.

Mr. GORE rose.

Mr. BURKETT. Mr. President, I do not want to interrupt the Senator from Oklahoma [Mr. Gore] for more than a few moments in anything that he may have to say on this subject, but I do want to call the attention of the Senator from South Dakota [Mr. Gamble] to the spectacle that we had out there with reference to the opening of some other reservations. I think it has been called to his attention how undesirable and how unsatisfactory the methods have been which have been recently followed. I do not know that we can add anything to this bill; I am not certain that the amendment of the Senator from Oklahoma, if added, would relieve the situation; but I am very well satisfied that there ought not to be any more land openings following the methods which have been pursued in our section of the country on the last two or three occasions.

Mr. GAMBLE. Mr. President, I might call the attention of the Senator from Nebraska [Mr. Burkett] to the last land opening we had in our State. That was the opening of the lands of the Cheyenne and Standing Rock Indian reservations. I do not recall just exactly the acreage to be opened, but at least, including the Indian allotments, it aggregated something like 3,000,000 acres. We have had some experience, Mr. President, in the manner of these openings in that section of the country. There were about 80,000, I

think, who registered, and I believe there were but ten to twelve thousand quarter sections of land to be filed upon. The first experience we had in our State following the one I think in Oklahoma, was at the opening of the lands in Gregory County. I think between four and five hundred thousand acres were to be opened. Something like 107,000 people registered, and only a limited number of homesteads were available. Following that an opening was had in Tripp County, adjacent to these lands, and although in proportion the lands were very much greater in acreage than in the prior opening, there were a very limited number in comparison who registered. Then, in the case to which I have referred, the Cheyenne and Standing Rock, the number was still less. So that I doubt the efficacy of the remedy proposed by the Senator from Oklahoma [Mr. Gore]. If the Senator from Nebraska [Mr. Burkett] would take the matter up with the President and the Secretary of the Interior, I think that would be the better policy to be followed.

Mr. BURKETT. Mr. President, I am not going to reiterate here the inconveniences to those who go to make these registrations; in fact, I have never had so much concern about them or as to how many have gone to attend them, in proportion to the number who draw prizes. But there is the other phase of it, and that is requiring them to go a long distance to register. I have no doubt that prevents a large number of people from undertaking to get homesteads who are most entitled to have them. I recall that during the last registration I was frequently on the trains in that portion of the State—and, if I remember rightly, I met the Senator up in that section on one occasion—when they were running trains in five, six, seven, and eight sections every day. There were estimated to be 5,000

people sleeping on the ground in one of the little towns where the registration was going on. It was impossible for any person getting on a train along the line within a hundred miles of one of these registration places to get a seat in a car.

That inconvenience, of course, argues nothing with reference to the merits of the system or otherwise; but here is the difficulty, it seems to me, and here is the thing that is against it: It is only the man who can afford to make the trip out there and pay his expenses who has any chance to get the land. I will say I was in that part of the State every day for a week riding on those trains, my engagements happening to put me just in that part of the State at that time. I talked with those people, and, in my judgment offhand, two-thirds of them were going up there more as a lark than anything else. There were people on their vacations going up to see what was done at a land opening. I know personally that some of them who drew very low numbers—within the first twenty—who did not even go and settle on the land. They did not care that much about it. In short, the people who really ought to have that land as homesteads, under the present registration system, can not go there and get it, as the chances are too small of their getting it to warrant them, with their limited means, in putting out the money to cover the expense.

The person who wants to take a vacation, the person who wants simply to go on a lark, the person who wants to spend a little money, will go there, it does not make any difference if his chance is only one in ten thousand; but the person who wants a homestead, with whom every dollar counts, and who does not want to take that risk without some fair and legitimate expectation or opportunity of winning, will not go out there.

In short, it throws the few people who really need homesteads, who want homesteads, who ought to have homesteads, and for whom the homestead law was made and who do go, in competition with about ten times as many people who have no use for homesteads and who are really almost afraid they will draw homesteads when they go out there and make the registration. There ought to be some way devised by which they would not have to come in competition. For example—

Mr. GAMBLE. Mr. President—

The PRESIDING OFFICER (Mr. Page in the chair). Does the Senator from Nebraska yield to the Senator from South Dakota?

Mr. BURKETT. Let me finish this sentence and then the Senator can have the floor.

I have in mind a bank clerk who lived in a very nice little town in Iowa. That bank clerk was on a vacation and wanted to go somewhere. So he went out there, and drew within the first twenty. He did not want that homestead; he never intended to go out there and make a home, and never would have gone out there; yet, as I have said, he drew within the first twenty. Of course he sold his relinquishment. There were a great many more just like that man, as we know. There was somebody out there who ought to have had that homestead, but, as a matter of fact, by his going, and under that registration system, somebody else who ought to have had it did not get it, and there were many more at home who ought to have gone there who did not go because the expense was too great.

Mr. President, I am just about through. As I have said, I do not know whether the amendment of the Senator from Oklahoma reaches the case. Before we vote on it I am going to have it read again and, as I

understand, the Senator from Oklahoma is going to explain it more at length. I have, however, not any manner of doubt but that of all the different ways that have ever been conceived for opening up reservations, the methods and practices that have been followed within the last two, three, or four years are the most vicious of any that have ever been tried. In my judgment, the old rush system that they had out in Oklahoma was much better than this system. It at least gave every man a chance in physical endurance, and he won if he had physical endurance and physical prowess. The present system does not insure anybody even a chance who really ought to have a homestead. I think, as I have said, it is the most vicious system that has ever been conceived.

Mr. HEYBURN. Mr. President, in connection with the suggestion of the Senator from Nebraska [Mr. Burkett] I would make this statement: The notary fees in the opening of a reservation during this last year in my immediate section of the country, I am told, amounted to more than \$40,000. Every person that registered had to pay a notary fee. That was unfair to those people. Only those whose names are drawn should be required to pay the notary fee. They should be entitled to register, and when the names are drawn, those to whom the land goes should make the declaration then and there and pay the notary fee. There is no sense on earth in having 180,000 people pay notary fees when they are only going to get one chance in eighteen. I merely make the suggestion for what it is worth.

Mr. GAMBLE. Mr. President, I do not want to take the time of the Senate unduly, but in reply to what the Senator from Nebraska [Mr. Burkett] has stated in regard to the recent opening of the Cheyenne and

Standing Rock Indian reservations. I have to say that there were four or five different registration points in the State adjacent to the land to be opened. It was necessary that those who intended to file should go there and register, and, of course, in registering they had to show that they would be competent to file upon the land.

An affidavit has to be made and 25 cents notary fee is charged. This latter statement is in reply to the statement made by the Senator from Idaho [Mr. Heyburn].

Trains were run, accommodations were provided at all of those points, and no 3,000 or 5,000 or any other number of men or women were obliged to sleep out of doors. Registration booths were kept open all night to accommodate all comers. They could come and go at any time of the day or night.

Perhaps this system, Mr. President, is not the best system; perhaps some other and better system can be devised, but this has grown up as a result of what was known as the "sooner rushing," I think, down in Oklahoma and at other places; that is to say, the one who first got upon the land was entitled to file, and there was trouble; there were contests; there was loss of life. In addition to that, it involved the Interior Department in endless litigation and controversy in the establishment of title. So the present system was adopted to avoid the trouble, delay, danger, and expense; and I do not believe that it would be bettered by the amendment proposed by the Senator from Oklahoma.

In reply further to the statement of the Senator from Nebraska that the men and women who are entitled to file upon the land are precluded, I will say that only a limited outlay is required to show their good faith in

making the filings and to show that they are entitled to homesteads. If the registration is thrown open to every citizen of the United States, a limitless number of applications would be filed, and the department would not know whether they were filed in good faith or otherwise. It seems to me it would entirely destroy any possibility of a successful opening and the bringing to those lands of desirable settlers.

Mr. DAVIS. Mr. President, I do not care to speak especially to the amendment offered by the Senator from Oklahoma [Mr. Gore], but at this time I desire to call the attention of the Senate to what I conceive to be two very serious defects in this bill. I am a member of the Committee on Indian Affairs. I raised these objections in the committee and reserved my right to make them on the floor of the Senate.

This bill provides, Mr. President, that the Government shall pay for the opening of this Indian reservation. This bill, together with its companion bill, appropriates something like a quarter of a million dollars of the public funds. I contend, sir, as was contended in the Senate recently by the senior Senator from Massachusetts [Mr. Lodge], that the enabling act between the State of South Dakota and the Government of the United States does not provide, by any fair interpretation of that act or by any interpretation that might be placed upon it by a lawyer who has studied it and given the subject careful consideration, that the Government shall be burdened with this expense. I grant you, sir, that in many instances this practice has grown up in the opening of western lands, but not because the enabling act between those States and the Government provides for it. For one, sir, I am not willing that this bill shall become a law without raising my voice and entering my solemn protest against the

Government being called upon to pay the expense of opening this Indian reservation.

Take the enabling act. I call upon the Senator from South Dakota to point out to the Senate the specific clause, to point to the letter of the law, that authorizes the taking of money from the Public Treasury before you shall enter there and use it for private purposes.

Now sir, there is another very serious defect in this bill. Section 7 provides:

Sec. 7. That sections 16 and 36 of the land in each township within the tract described in section 1 of this act shall not be subject to entry, but shall be reserved for the use of the common schools and paid for by the United States at \$2.50 per acre.

I should like to inquire of the Senator from South Dakota if the Government now owns sections 16 and 36? I wait for an answer.

Mr. GAMBLE. The Indians possess the right of occupancy, and, under the law and legislation of Congress, the Government agreed to reserve these lands and to pay for them, not only by law, but under the enabling act admitting the State of South Dakota to the Federal Union.

Mr. DAVIS. I will ask the Senator from South Dakota if the title of sections 16 and 36 is not in the Indians by the terms of the treaty?

Mr. GAMBLE. The right of possession, I presume, is.

Mr. DAVIS. I maintain, Mr. President, that not only the right of possession, but the absolute fee to these lands is to-day in the Indians of South Dakota, where this reservation is proposed to be opened.

Now, sir, the serious objection I raise to this bill is that it provides that the Government shall buy, or that there shall be reserved out of this reservation, sections

16 and 36 for the use of the common-school fund of South Dakota. I am the last man on earth who would raise his voice inimical to the school interest of any State. But, sir, I maintain, with the admission of the Senator from South Dakota, that the Indians own not only, as I say, the right of possession, but the absolute fee to these lands, and for the Government to say that lands which it does not own shall be reserved for common-school purposes is an absolute fraud and a subterfuge; and the further reading of the bill discloses that if these lands are already taken, are already occupied, or have already been entered, then, sir, the provision in the bill is that the school land shall be shifted to other unallotted land.

Ah, sir, I am told that these other unallotted lands are absolutely worthless, absolutely valueless, and the purpose of this bill, as I see it, is to force the Government to pay \$2.50 per acre for this worthless arid land. By whom it is backed I know not. The Senator from South Dakota knows not. I clear him of any sort of imputation. But, sir, there must be behind this some powerful and potent force that would suggest that the Government buy these worthless, arid lands and pay \$2.50 an acre for them and appropriate from the Public Treasury of the United States a quarter of a million dollars in order to do it.

Mr. President, too many scandals have arisen recently with regard to land grabbing in the great Northwest. The history of all that is known to all the Senate. I call upon Senators here, before they invade the Treasury and take from it this large sum of money, to act cautiously, to act prudently, and to see where they are before they vote away the people's money.

Mr. President, I have said this much because I thought it was my duty to raise my voice against what

I believe to be an iniquitous bill, one fraught with much evil, couched, as all such things are couched, under the pretense of the good of the people.

Mr. CRAWFORD. Mr. President, this bill was introduced by my colleague, and he is in charge of it, but it is one of interest to my State, and I think the Senator from Arkansas [Mr. Davis] has great concern over imaginary dangers. I have lived in the West all my life, and I have lived in South Dakota half of my life. It was a Territory when I went there, and almost all of the west half of it was an Indian reservation, occupied by the Sioux Indians.

By treaties negotiated from time to time, and by laws enacted from time to time, the area of lands occupied by the Indians has gradually narrowed to smaller and smaller limits, until now the lands owned by the Indians are comparatively small in quantity. They are not lands which in their possession bring any revenue whatever. They do not cultivate them. There is neither fish nor game upon them. The policy of the Government toward the Indians and toward these lands has changed in more recent years simply in this respect—that the lands be sold and the proceeds made into a trust fund, the principal forever held inviolate and the income from which is devoted to the Indians.

When these lands under this bill and similar bills are thrown open to settlement, the Indian first selects by allotment the portion he is allowed to take upon the abandonment of his tribal relations, and the balance is sold to the settler, who must first make entry and settlement and comply with the provisions of the law and then pay the Government, and the proceeds go into the fund for the Indians.

Sections 16 and 36, to which the Senator refers, are held from the settler and are given to the State to keep

good the pledge made to the State by the Government under the enabling act when the State was admitted into the Union, by which a grant was made to the State for its common schools of sections 16 and 36, whether surveyed or unsurveyed. Our State came into the Union with that grant and that provision in its organic law, and the pledge of the Government in the enabling act was given to the State that it would receive sections 16 and 36 for the benefit of its common schools. So sections 16 and 36 can not in the remotest degree be charged with being a subject for jobbery or speculation or graft, because they are the property of the State, granted for the support of its common schools, and this provision is simply to enable the Government to keep that pledge.

The Senator from Oklahoma [Mr. Gore], I know, had a worthy object in view when he proposed this amendment, but it seems to me it will utterly fail to remedy the trouble which the Senator seeks to correct. It is true that when these proclamations are issued opening lands in the West, under the method that is pursued now, great crowds get on the trains and go long distances, and many of them spend their money, and certain abuses have followed that method. But how would the mere mailing of a registered letter to the representative of the Government on the ground make this matter any better? It seems to me it would make it infinitely worse.

The whole object now—and it is a worthy object, indeed—is that these lands shall be secured to the actual settler, the man who wants them for a permanent home, the man who wants them for his family. But if you give to every person who mails a registered letter to the superintendent in charge of these openings a right to secure a number and have it registered and

drawn in the lottery, instead of having 150,000 persons on the ground drawing numbers you will have perhaps 15,000,000 who had simply paid the expense of registration and mailed a request to be permitted to file, accompanied by some affidavit containing whatever was required; and every person everywhere, no matter whether he was intending to be an actual settler or not, whether his motives were good or bad, whether he was a speculator who after drawing a number would undertake to sell the land to some one the next day, or who would make a filing and then relinquish it to whomsoever would pay him the highest price—every person of that character in the United States by simply mailing a registered letter would be the equal of the best-intentioned and most deserving prospective settler in the United States. It seems to me the abuse would simply be aggravated by the proposed amendment.

Now, just one worth further. I think there is some misapprehension about the great advantage secured by making one of these drawings. When the prospective settler goes out to Rosebud or to Standing Rock and files or registers a request there and gets a certain number, if he succeeds in drawing a number which will permit him to file, he has not secured a quarter of a section of land by any means. In fact, his troubles have just commenced. He has a number that permits him to file. But he must go and inspect the land. He must then go and enter the land. He must make settlement upon it. He must put improvements upon it. He must reside upon it; and under present conditions, which in the protection of the public domain are exacting, as they ought to be, by the time he gets through with his settlement and with his improvements, and pays what is required, he has paid practically all that the land is worth, unless he is fortunate in securing an unusually

good tract. The best lands are gone. What are left are the culls; and I think the proposed remedy of the Senator from Oklahoma would really aggravate the difficulty and be an abuse.

Mr. GORE. Mr. President, I think both of the Senators from South Dakota misapprehend my purpose. It is not my purpose to restore the old plan of opening these lands by run or rush. I think the plan of opening by registration and lottery has a great many advantages over the old system. But my purpose is to improve and perfect the system of opening by registration and lottery.

I can see no good reason why a citizen of New England, a citizen of Maryland, or a citizen of Oklahoma should be compelled to journey from his home to South Dakota, delightful as such a journey would be, merely to register and obtain a right to enter this lottery. The plan I suggest will obviate that necessity and will avoid those evils.

I went through a registration of this sort. I slept on the ground for three nights, and I know the inconveniences and the annoyances which characterize those occasions. An applicant may have to camp for two or three weeks before he can make out his registration papers. The actual business of making out the papers requires only ten or fifteen minutes, and it merely consists of answering a series of questions and swearing before a notary public that the answers are true. Those questions can be answered and that oath can be made as well in New England, Maryland, or Oklahoma as in the State of South Dakota. There are certain qualifications prescribed that would be just as applicable to the man in Virginia as to the man actually upon the ground, which dispenses with that objection urged by the Senator from South Dakota.

The opening on which I made an assault with an intent to obtain a homestead was attended by some 170,000 applicants. They came from every State in the Union. With 13,000 claims to be awarded, there were fourteen or fifteen persons who incurred that expense and that annoyance for every one person who had the good fortune to draw a claim.

It is true the homesteader does as much for the Government as the Government can do for him. But the inconveniences following entry attend one system as well as the other. I wish to make it possible for every man in the United States who desires a home to make his application without expense and without inconvenience. Many people will incur an expense of two or three hundred dollars, when the only necessary expense should be a notary fee, paid to an officer at the home of the applicant. All the advantages of the registration system can be maintained and all the disadvantages can be avoided.

Now, I marvel somewhat at, and I heard with regret, the suggestions from the Senators from South Dakota, that if this plan were adopted the applications would be infinite in number. It is suggested as an objection to the plan that there would be a limitless number of applicants. Mr. President, that is the strongest argument in favor of the plan I propose. Why disqualify any American citizen from the opportunity of obtaining a home in the glorious State of South Dakota? There are many citizens, deserving citizens, who desire a home and who are unable to make this expensive journey, and I would not close the door to the humblest citizen in this Republic.

The other evil, of persons applying for an even entering these lands who are not bona fide settlers and who have no purpose of establishing a permanent home,

can be obviated by striking from the bill the commutation clause, which dispenses with the requirement of five years' residence, permitting an adventurer to enter these lands, reside upon them for eight months, and then sell them to any purchaser who may come hither.

Now, sir, that is a serious objection. It violates the spirit of the homestead law. It brings adventurers and speculators into competition with the honest home seeker; and that clause should be stricken from this bill, and at the proper time I shall move to do so.

Mr. GAMBLE. Mr. President, I beg pardon of the Senate for taking its time to the extent that I have done. But this bill only gives to the President and the Secretary of the Interior the power to prescribe the rules and manner of opening these reservations.

Now, leave that power with the President and with the Secretary, and perhaps the Senator from Oklahoma may make some wise and good suggestions to modify or change or alter the regulations proposed to be issued in this connection. I do not believe it would be wise to restrict it or to limit it in the way proposed.

This method has been found substantial, good, and has avoided the trouble and annoyance to which the department has been put heretofore. It has avoided violence and bloodshed and incessant troubles in matters of contests. This system has been evolved from the experience of the Interior Department in connection with the opening of a large number of reservations, and I think we had better let this procedure stand and this power remain where it is.

Mr. BURKETT. Mr. President, it seems to me the Senator from South Dakota might very well let something go into this bill which would show to the department our opposition to the present system. I am willing to leave the greatest discretion to the depart-

ment with reference to the method, but I do want in some way somehow to go on record as protesting against the miserable method that they have employed in opening up the last few reservations.

I wish to say to the Senator, with all proper apologies for differing with him, that that method was not a success. It did not prevent bloodshed. It did not prevent crime. It did not prevent the practice of all sorts of petty offenses.

Mr. GAMBLE. Now, Mr. President—

Mr. BURKETT. I want to say to the Senator, Mr. President—

The PRESIDING OFFICER. Does the Senator from Nebraska yield to the Senator from South Dakota?

Mr. BURKETT. Yes; I will yield.

Mr. GAMBLE. Will not the Senator admit that the method pursued by the department in regard to registration and filing under this system has prevented bloodshed, has prevented difficulties, has prevented contests over the title to government lands, which were in vogue under the former system?

Mr. BURKETT. I think very possibly the Senator's observations with reference to contests is correct, and I think that is the only thing that is correct about all of it. I do not think it has done anything else than save the Government a little worry and a little expense, perhaps, in contests. It has not entirely prevented crime; it has not entirely prevented bloodshed, as I know very definitely and very certainly. No one could watch the spectacle that was witnessed in four or five towns last summer without knowing that the absolute reverse of what the Senator says is true.

Mr. GAMBLE. Does the Senator from Nebraska pretend to say that in the opening and registration of lands last fall at the Standing Rock and Cheyenne Indian reservations there was bloodshed?

Mr. BURKETT. Yes; I do mean to say it.

Mr. GAMBLE. I will be very glad to have him specify it. I am a resident of that State, and so far such information has not been communicated to me.

Mr. BURKETT. The Senator should read the history of the transaction. He should go back and read the newspapers.

Mr. GAMBLE. There was no crime in any locality.

Mr. BURKETT. They have just got through with the trial of a case of murder that resulted from it, I will say to the Senator.

Mr. CRAWFORD. Mr. President—

The PRESIDING OFFICER. Does the Senator from Nebraska yield to the Senator from South Dakota?

Mr. BURKETT. Yes.

Mr. CRAWFORD. I never before knew the Senator from Nebraska to be so prejudiced from reading newspapers. The facts are we had an opening of this character on the Crow Creek Reservation, a few miles south of the capital of our State, two years ago, I think it was. My colleague will remember more accurately about the time. I was there at the time. There was no mob. There never was a crowd there that the hotels could not comfortably accommodate. There was no great rush, and those lands were filed upon. People came there and registered and got their numbers and afterwards filed upon those lands without, to my personal knowledge, one unseemly incident having occurred.

Now, last year, just last fall, in the Standing Rock and Cheyenne reservations, a tract of some 3,000,000 acres was opened, and the only disappointed people were the restaurant keepers and the saloon keepers and the gamblers, who had expected to have a great mob there whom they could rob and fleece. But the great

mob did not come. The trains were not overcrowded. In the aggregate, when they all got there, there were a considerable number of people, but they did not all rush in, as they did in Oklahoma, and as they did in Gregory County six or eight years ago. I am not entirely clear as to the reasons for this, but I am stating facts.

Mr. BURKETT. I should like to ask the Senator why they called out the militia?

Mr. CRAWFORD. It was not last year at all.

Mr. BURKETT. It was up in South Dakota somewhere.

Mr. GORE. Mr. President—

The PRESIDING OFFICER. Does the Senator from Nebraska yield to the Senator from Oklahoma?

Mr. BURKETT. Yes; if he wants to ask a question.

Mr. GORE. Yes; I do. Can the Senator from South Dakota state the number of persons who registered and the number of claims? That would give us some idea.

Mr. CRAWFORD. I would not want to depend upon my recollection as being exact. I think my colleague's recollection as regards that would be more dependable than mine, because he was more actively connected with the legislation. I will ask my colleague if he can answer the question as to the number of registrations and the number of claims?

Mr. GAMBLE. My recollection is it was something less than 80,000; it may have been 67,000. I have it not clearly in mind.

I may say further that one registry point was Bismarck, the capital of the State of North Dakota, where there was perfect order; Aberdeen, one of the largest cities in the northern part of the State, where there was perfect order and where there was no trouble; and in the other four places, one of which was the

capital of the State, at Pierre, and in smaller towns, there was no sign of crime. The Senator from Nebraska has simply worked upon his imagination. At one point, before the registration was had, it was thought it might be necessary to have some of the militia there. They were there for two or three days and were sent home. There was no occasion for their presence.

Mr. CRAWFORD. They were not required anyway. However, I believe the Senator from Nebraska has the floor.

Mr. BURKETT. I do not want to interrupt the Senator until he gets through.

Mr. President, I am glad to hear that things all ran so smoothly up there. But I am rather surprised to hear it. As I said a moment ago, I was on one of those trains destined to a town where registration was being made, and I know something of the conditions of travel. I know there was crime. I know there was bloodshed. I know there were men killed, because they have only recently gotten through with the trial in my own State pertaining to one offense.

Mr. GORE. Mr. President—

The PRESIDING OFFICER. Does the Senator from Nebraska yield to the Senator from Oklahoma?

Mr. BURKETT. Certainly.

Mr. GORE. I merely want to reenforce the statement of the Senator from Nebraska, and to say that if I were willing to turn State's evidence I would corroborate the statement he has made.

Mr. BURKETT. As a matter of fact—

Mr. CRAWFORD. Mr. President—

The PRESIDING OFFICER. Does the Senator from Nebraska yield to the Senator from South Dakota?

Mr. BURKETT. Certainly.

Mr. CRAWFORD. Naturally the representatives of the State of South Dakota are a little sensitive about these charges of crime and bloodshed. I should like to have specifications here. To which opening of lands does the Senator refer in connection with his inference that there were mobs and crime and bloodshed? At the one at Gregory several years ago, nearly ten years ago, I think, there was a great pressure and I think there was considerable lawlessness, but at the last two openings, the one last year and the one two years ago, I do not know of a single case of bloodshed and violence. If the Senator does I should like to have a specification.

Mr. BURKETT. I can not tell which one of the reservations it was, because I do not know enough about them. I judge it was the Gregory opening, the one four or five years ago.

Mr. CRAWFORD. It was nearly ten years ago.

Mr. BURKETT. That is not any reflection on South Dakota. Those people did not come from South Dakota. Neither the party who was killed nor the men who did the killing came from South Dakota. So it is no reflection on South Dakota. Those things occur wherever you collect great numbers of people. The thugs and the bums there were not the great mass of the people who went there to get this land, but thugs and bums collect there for the particular occasion, and they always collect when crowds are going to gather.

If there was not anything else to brand that system as wrong, simply the reason that honest men and honest women have to go into these great crowds, and under conditions in which they have to go there, is enough to condemn it. I saw women going out there to make a homestead entry as the head of a family who were crowded into cars with more people than could find seats, riding all night, as they had been doing, and

in conditions, sanitary and social, that were absolutely unbearable and repulsive.

When they got to the place where they had to register, the complaint was not of the people who went along there as honest entrymen, going there for homesteads; but, as I said, they were at the mercy of the gamblers and the thugs and the bums, who always follow such crowds where there is not any way of controlling them.

Mr. GAMBLE. Mr. President—

The PRESIDING OFFICER. Does the Senator from Nebraska yield to the Senator from South Dakota?

Mr. BURKETT. Certainly.

Mr. GAMBLE. I will ask the Senator from Nebraska if he is not now confining his observations to conditions in the opening that occurred in the State of Nebraska? I will say to the Senator that in the opening of the Rosebud Reservation one of the registration points was Yankton, my home town. I was there in person, and there were, I think, some 67,000 registered in practically eighteen or twenty days. Good, honest, lawabiding people came there to register, who wanted the land. They were some of the best citizens of the Northwest and from many States in the Northwest. They were not thugs or bums or gamblers. The civil authorities of the city protected them. Like conditions prevailed, Mr. President, in the recent openings in the State last fall.

I do not care to sit here and listen to a libel on the State, because I am satisfied that the Senator from Nebraska has in his mind conditions that occurred in his own State, and not the opening of Tripp County land to homesteads.

Mr. BURKETT. Mr. President, I am not going to continue this controversy. I know how sensitive are the

Senators from South Dakota in regard to anything that reflects on her police system. Nevertheless, the condition was notorious at those openings in South Dakota, and it is not to be wondered at. They are small places, probably with only one constable or justice of the peace, and that is about the extent of the police power. They can not handle those crowds and never have handled those crowds.

Mr. GAMBLE. Provision was made, as required by the Interior Department, before the towns were so designated, that police regulations should prevail.

Mr. BURKETT. Mr. President, there is not any use to be debating this question. There is not anyone who followed the newspapers or who knows anything about it who does not know that they never have been able to protect the people fully who go there, and never will. It is impossible to do it.

But that does not concern me more than the other phase of the question that I have mentioned. The Senator from South Dakota knows that I did not say that those people who went up there were all thugs and bums. If we were practicing law it would be pettifoggery to put that kind of language into my mouth, because I specifically excepted ninety-nine one-hundredths of the people who go up there. They are honest people, and they go there for homesteads, but owing to the conditions they are put absolutely at the mercy of thugs and bums and gamblers, who, as I said, always follow great crowds when people are going to assemble for only a few days and then disperse, and when they know that there is no adequate policy system for the protection of the crowds that so assemble.

That is not the worst thing. As I said at the opening of my remarks, I am not so much concerned about the

man who goes there as the man who is prohibited from going under this system. The person who goes there has money to go, and he spends it, and I am not so much concerned about that. I am not so much concerned about what he has to encounter in the way of danger when he goes there. He takes the risk when he starts on such a trip as that. But I am concerned about the people who do not feel that they have the money to make that long trip when the possibilities of getting any of the lands are so remote. Let the Senator take the figures. Of course I do not have them here. I had not expected to say anything in opposition to the bill; but I will say to the Senator if he will adopt some sort of an amendment like the Senator from Oklahoma has offered, and then cut out the commutation clause in the bill, he will find that there will be more genuine homesteaders who want that land for homesteads who will go up there to make entries than there are to-day, when they realize that after living there only a few months they can commute and get a patent, when they never had, in fact, any intention of making a home there.

So if the Senator really wants the people to go up there who want to live there and have that as a home, let him adopt some kind of a clause like that, and give the people all over the country who need homes an opportunity to get into the drawing, and then cut out the commutation clause, so that only the men will go there who know they will have to live there five years before they get a patent. If you do that you will not find men going there for speculative purposes when they realize they will have to live five years on it.

Mr. CRAWFORD. Mr. President, I should like to know how the Senator would solve this difficulty. As I understand it, this land must all be paid for, and the

price named in the bill goes to the Indians. It is to keep the compact with the Indians, under which they assented that the lands should be thrown open to settlement, and pay them for the land that the settler is required to pay for the land. Unless the Government, out of its general fund, sees fit to pay the Indians the \$2.50 an acre the Government will have to get it from the settler by commutation.

Mr. DAVIS. I should like to ask the Senator from South Dakota—

The PRESIDING OFFICER. The Senator from Nebraska has the floor. Does he yield to the Senator from Arkansas?

Mr. BURKETT. I will yield for a question. I wish that these replies to my remarks might wait until I am through, but I will yield for a question.

Mr. DAVIS. I should like to ask the Senator from South Dakota if he thinks it fair to the Government to buy land to give to South Dakota? The bill provides for doing that.

Mr. CRAWFORD. I will say to the Senator—

Mr. BURKETT. Mr. President, I think, as that is opening an entirely different question—

Mr. CRAWFORD. Very well; I will not take the Senator's time.

Mr. BURKETT. I would rather finish what I have to say. As I was about to say, I think, when interrupted by the Senator from South Dakota, I am not so much concerned for the purposes of this argument about whatever crime there may have been or may not have been. And if he thinks that I reflected on South Dakota too much I want to withdraw it, because I have been through South Dakota and I know there are no more peaceable and law-abiding people in the world than the people from South Dakota. A whole lot of them went

up from Nebraska, and all who went from Nebraska are good people. If the Senator thinks that I intended to convey the idea to the world at large that they were not law-abiding, and that those people were thugs and bums who went there to get homesteads, on the contrary, I assure him he misunderstood me.

When I was interrupted I was about to say that I am more concerned about giving the men in this country who really need homes a chance to have a home. If the Senator will look up and find out who went out there to make that registration, he will discover that they were men from Nebraska and other adjoining States in the greatest number, men from Iowa and North Dakota and Minnesota and the States adjacent.

It is fair to say that those men are not as much distressed for homestead opportunities as the people in more remote States, like New England, Pennsylvania, New York, and other States east of the Mississippi River. Yet by the terms of the law compelling men to go there and register on the ground you practically made it prohibitive for the man back in New England, New York, or Pennsylvania to have an opportunity to get a home. He has to go across the continent and reach there for what? Simply to say to the Government, "I want to have a chance in your wheel of fortune to get a homestead." That is all he says when he goes out there, and he spends more than \$100 to go there and do it.

I say it is not fair to a man who lives on the Atlantic seaboard to put him to that disadvantage. If you want homesteaders, if you want to throw this land open to the men who most need homesteads, then, I say, do not put that penalty on them. Do not say to them, "You shall be at a disadvantage of \$100 or \$200 or \$250 as against the man who lives out there." Let him

go to a point in his own community and make his registration. If I was making the law, I would make it so severe that there would not be any speculator and there would not be any man allowed to impose on the Government's time or patience or expense to make a registration who did not expect in good faith to make a home. In my judgment, we ought to change this bill so as to prevent the recurrence of what has happened heretofore.

Now, to be sure, as the Senator from South Dakota says, when you let this registration be done everywhere, you multiply the number of those who are going to register. That is true. But what difference does it make? Suppose you multiply it by ten, it is all a lottery anyway. When you start the wheel going, what is the difference whether there are 10,000 envelopes in that wheel or 100,000 envelopes. If there are a hundred thousand envelopes instead of 10,000, there will be 46 States represented in the wheel instead of 5 or 6 States as under the present system. Let them register anywhere over this country, and you will have 46 States represented in the wheel, while if you make it under the bill as written, you will have 4 or 5 or 6 States represented in the wheel.

I submit to the Senator if you really want to give this land to people who need it for homes you should so frame the bill as to permit them to get it, and not make it prohibitive to the greater portion of the country.

Mr. GAMBLE. I suggest to the Senator to leave the power with the Secretary of the Interior, in a proclamation to be issued by the President, and possibly a better plan may be devised. But after the experience of a number of years, I do not want to accept hastily an amendment which has not been considered. Experience

in this matter has gone on for years, and this is the best method so far that has been found.

Mr. CRAWFORD. Mr. President, with reference to sections 16 and 36, they or their equivalent belong to South Dakota, because the Government of the United States granted sections 16 and 36 to the State in the enabling act under which the State was admitted into the Union, as it has granted to States over and over again millions of acres of public domain for the establishment and maintenance of common schools.

Mr. DAVIS. Mr. President—

Mr. CRAWFORD. That is all I desire to say with reference to that proposition. There are one or two other matters—

The PRESIDING OFFICER. Does the Senator from South Dakota yield to the Senator from Arkansas?

Mr. DAVIS. Just for a question.

Mr. CRAWFORD. Very well.

Mr. DAVIS. The Senator from South Dakota certainly does not remember that his colleagues in this discussion admits that sections 16 and 36 belong to the Indians, not to the State of South Dakota.

Mr. CRAWFORD. The grant was made, and it was up to the Government to secure the title from the Indians to make good its grant. That is all there is to that.

Now, with reference to the five-years' settlement without pay you have to take one of the two horns of the dilemma right there. If the settler goes and lives on his quarter section for five years and then gets his patent without paying the Government anything, the Government must pay the Indians the \$2.50 an acre for the land, and if the Government does not get the money from the settler it must take it out of the general fund. But the Government will take it from the

settler because the settler is getting the land and the charge of \$2.50 is taken from him, while over and over again in years gone by the Government has taken \$1.25 an acre from the settler. So the commutation is the only practical way by which you can get the money from the land.

[45 Cong. Rec. 1073-1075 (1910)]

LANDS IN ROSEBUD INDIAN RESERVATION.

Mr. GAMBLE. I move that the Senate proceed to the consideration of the bill (S. 183) to authorize the sale and disposition of a portion of the surplus and unallotted lands in the Rosebud Indian Reservation, in the State of South Dakota, and making appropriation and provision to carry the same into effect.

Mr. DAVIS. Mr. President, I make the point of order that that can only be done by unanimous consent.

Mr. GAMBLE. I make the motion to proceed to the consideration of the bill, and I do not think that requires unanimous consent.

The VICE-PRESIDENT. The order for the day has been laid aside by unanimous consent, and the Chair thinks that the motion of the Senator from South Dakota is in order. The question is on agreeing to the motion made by the Senator from South Dakota.

The motion was agreed to, and the Senate, as in Committee of the Whole, resumed the consideration of the bill.

The VICE-PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from Oklahoma [Mr. Gore], which has heretofore been read.

The amendment was rejected.

Mr. DAVIS. Mr. President, the Senator from Oklahoma [Mr. Gore] requested me to say to the Senator from South Dakota [Mr. Gamble] that he had gone to the library to look up some authorities in reference to this bill, and that he trusted the Senator from South Dakota would not press the matter until his return. That is the reason why I called the attention of the Chair to the fact that I thought unanimous consent was necessary for the consideration of the bill. I trust the Senator from South Dakota will not press this matter until the Senator from Oklahoma shall return to the Chamber.

Mr. GAMBLE. Mr. President, I desire to be most courteous, and in no sense do I want to be discourteous to either the Senator from Arkansas [Mr. Davis] or the Senator from Oklahoma [Mr. Gore]. This bill, however, has been pending before the Senate for practically two hours this morning. I do not know that the Senate can suspend its business, and I do not know that I should be called upon to lay aside the bill while an examination was being conducted in regard to it.

Mr. DAVIS. I suggest the absence of a quorum, Mr. President.

The VICE-PRESIDENT. The Senator from Arkansas suggests the absence of a quorum. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Bacon	Crane	Guggenheim	Piles
Bankhead	Crawford	Heyburn	Rayner
Beveridge	Cullom	Johnston	Root
Borah	Cummins	Jones	Scott
Bourne	Davis	Kean	Simmons
Brandeggee	Depew	La Follette	Smith, Md.
Bristow	Dixon	Lodge	Smith, S. C.
Brown	du Pont	Martin	Smoot
Bulkeley	Flint	Money	Stephenson
Burkett	Frazier	Nixon	Sutherland
Burnham	Frye	Oliver	Taliaferro
Burrows	Gallinger	Overman	Warren
Burton	Gamble	Owen	Wetmore
Chamberlain	Gordon	Page	
Clapp	Gore	Paynter	

Mr. BACON. I simply desire to announce that my colleague [Mr. Clay] is necessarily detained from the Chamber by illness.

Mr. FLINT. I desire to announce that my colleague [Mr. Perkins] is unable to be present at the session of the Senate to-day on account of illness.

The VICE-PRESIDENT. Fifty-eight Senators have answered to the roll call. A quorum of the Senate is present.

Mr. GORE. Mr. President, I desire to inquire the status of the bill providing for the opening of the Rosebud Indian Reservation?

The VICE-PRESIDENT. The bill is still before the Senate, as in Committee of the Whole, and open to amendment.

Mr. GORE. Was it placed before the Senate, as in Committee of the Whole, by unanimous consent?

The VICE-PRESIDENT. It was done on motion adopted by the Senate.

Mr. GORE. Mr. President, I have been informed during the progress of the debate that occurred a moment ago that President Hill, of the Great Northern Railroad, stated in a speech, and I believe in an interview, that certain of these openings brought more than a million of dollars into the treasury of his road; that it was a fraud and a robbery on the people; and that if he could ascertain the names and addresses of those people he would return the money. I have been informed that it might be possible to obtain and authenticate that interview, and I should like to have time to do it, because it certainly ought to be conclusive if it can be done. I move, therefore, that the further consideration of the bill be postponed.

Mr. GAMBLE. Mr. President, this bill has been on the calendar for some time. This is the fourth time it has been reached for consideration. This subject has been fully discussed, and the amendment proposed by the Senator from Oklahoma [Mr. Gore] has been considered and has been voted upon. I do not care to take the time of the Senate in discussing this motion or the method of land opening; but under the experience of the Interior Department the procedure which is now and has been in vogue for a number of years past has been the outgrowth of the experience, wisdom, and judgment of the Interior Department. I say, so far as I am concerned, that from the experience we have had with it in the State of South Dakota it has worked well.

To throw open to every man and woman in the United States the opportunity of filing, I submit, would tie up the opening of this reservation indefinitely by having a million people make filings who never would contemplate going upon the land, because these lands will be opened, as proposed under this measure, on an

appraisement on their value. Any settler intending to settle and take the land must not only be a homesteader and reside upon the land, but must pay to the Government for the Indians the appraised valuation of the land. It is no easy matter to go out there and carry out this undertaking. I submit that we should proceed with the consideration of the bill.

Mr. GORE. Mr. President, I desire to inquire whether a vote was taken on the amendment which I offered?

Mr. GAMBLE. Yes, sir.

Mr. GORE. I was absent from the chamber only about four or five minutes, and I express my regret that it occurred during my absence. It seems to me, if the suggestion I have just made with reference to a million dollars being collected unfairly and unwarrantedly from the people can be substantiated, it certainly ought to be done. The land in South Dakota will probably keep, and I see no reason why every Senator should be expected to sacrifice the interests of every one of his constituents in order to boom and boost two or three towns in the State of South Dakota, for that is what this amounts to.

Mr. GAMBLE. Mr. President, I have apologized many times for taking the time of the Senate, but twenty years ago practically the entire western half of the State was an Indian reservation. It has been opened gradually and by degrees. The Indian reservations have stood as a menace to the development and the growth of the Commonwealth. The Indians themselves agreed to the provisions of this bill after it had been submitted to them for their consideration. The department agreed to it. It follows in line, Mr. President, with all of the measures providing for opening reservations in the Western States.

It is suggested that the consideration of this bill be suspended until some rumor or newspaper reports to the effect that somebody has made an observation as to the receipts from the transportation of passengers to land openings could be run down or some interview inquired into. I submit, Mr. President, that is not a sufficient reason to delay the passage of this bill. In fairness and in justice to the importance of the measure and to the interests of the Indians and the interests of the people of South Dakota this bill ought to pass.

The VICE-PRESIDENT. The question is on agreeing to the motion of the Senator from Oklahoma to postpone the consideration of the bill indefinitely.

Mr. GORE. Mr. President, I did not mean indefinitely, but to postpone the present consideration of the bill. If it is necessary to fix a date, I will suggest a date. I supposed that motion was in order.

Mr. BEVERIDGE. That can not be done.

Mr. GORE. I am as anxious as the Senator from South Dakota that this land should be opened and then converted into homes, and I have no disposition to delay or defeat the measure. I move that it be postponed for a week. I think in that time possibly I can ascertain from the library regarding the matter, and obtain the information I desire.

The VICE-PRESIDENT. Does the Senator modify his motion?

Mr. GORE. Yes, sir.

Mr. BEVERIDGE. Mr. President, the Senator was not here when the unfinished business was laid aside by unanimous consent, but retaining its place as unfinished business, it being laid aside temporarily for to-day only. It would be impossible, therefore, for the Senator now to make a motion for the postponement of the consideration of this bill for a week, because the

unfinished business, by unanimous consent, retains its place. The Senator can not move, therefore, the postponement of the consideration of the bill to a day certain. The time for the consideration of the bill has already been fixed by unanimous consent when the Senator was out of the Chamber.

Mr. GORE. Then, is it the unfinished business?

Mr. BEVERIDGE. No. The unfinished business, by unanimous consent, was laid aside temporarily for the day only, the unanimous-consent agreement including that statement, and also that it was to resume its place to-morrow and hereafter every day at 2 o'clock. Therefore the Senator must see that he can not move to postpone the consideration of the pending bill to a fixed date.

Mr. GORE. I suppose a motion would be unavailing, anyway, but I move that the further consideration of the bill be postponed for to-day.

Mr. CRAWFORD. Mr. President, as I understand, no amendment is pending to the bill. The only amendment proposed was that by the Senator from Oklahoma [Mr. Gore], and that has been rejected. The only basis for the request for delay is that somewhere in some newspaper it was stated that some railroad president told how much money his company got from the passengers who flocked to one of these openings somewhere, and that "somewhere" is not yet stated. It seems to me that that is hardly a sufficient reason why a deliberative body should, when a bill has been reached for consideration after quite full discussion, delay action upon it.

Mr. BEVERIDGE. I will make a suggestion, which I think the Senator from Oklahoma can follow.

Mr. GORE. I inquire whether it is not possible by objection to the further consideration of this measure to have it passed from Rule VIII to Rule IX?

The VICE-PRESIDENT. No; the Senate has determined by motion to consider the bill now.

Mr. GORE. I was not aware of that.

Mr. BEVERIDGE. If the Senator from Oklahoma will permit me, it was stated that his amendment had been disagreed to on a vote while he was out of the Chamber. I suggest to the Senator that he can submit his amendment again in the Senate. So he has lost no right.

The VICE-PRESIDENT. The question is on agreeing to the motion of the Senator from Oklahoma to postpone indefinitely the consideration of the pending bill.

—The motion was not agreed to.

The VICE-PRESIDENT. The bill is still before the Senate, as in Committee of the Whole, and open to amendment.

Mr. DAVIS. I suggest the absence of a quorum, Mr. President.

The VICE-PRESIDENT. The Senator from Arkansas suggests the absence of a quorum. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Bacon	Clark, Wyo.	Gordon	Piles
Beveridge	Crawford	Gore	Rayner
Borah	Cullom	Guggenheim	Root
Bourne	Cummins	Hughes	Scott
Brandegee	Davis	Jones	Shively
Bristow	Depew	Kean	Simmons
Brown	Dolliver	Lodge	Smith, Md.
Bulkeley	Elkins	McEnery	Smoot
Burkett	Fletcher	Martin	Stephenson
Burnham	Flint	Money	Stone
Burrows	Frazier	Nixon	Warren
Burton	Frye	Oliver	Wetmore
Chamberlain	Gallinger	Owen	
Clapp	Gamble	Page	

Mr. CLAPP. I desire to say—and I wish my statement to cover the several calls which I anticipate may be made this afternoon—that my colleague [Mr. Nelson] is to-day absent on committee work by authority of the Senate.

Mr. DAVIS. The statement of the Senator from Minnesota is entirely gratuitous. A Senator has a right to demand a call of the roll at any time, and I expect to exercise that right as long as I think it is the proper thing to do.

The VICE-PRESIDENT. Fifty-four Senators have answered to their names. A quorum of the Senate is present. If there be no further amendments, the bill will be reported to the Senate as amended.

Mr. GORE. I submit one other amendment. I do not care to make any remarks upon it. It relates to striking out the commutation clause, beginning, I believe, in line 23, page 6, and closing with the word "made," in line 3, on page 7. It simply closes the door to adventurers

and speculators who might file under the provisions of the proposed act and limits the filing to actual and bona fide homesteaders as far as possible.

The VICE-PRESIDENT. The Senator from Oklahoma offers an amendment, which will be stated.

The Secretary. Beginning on page 6, line 23, it is proposed to strike out the following:

And provided, That nothing in this act shall prevent homestead settlers from commuting their entries under section 2301, Revised Statutes, by paying for the land entered the price fixed herein, receiving credit for the payments previously made.

Mr. GAMBLE. Mr. President, I simply wish to say that this is the uniform provision in all these bills. So far as concerns the question of good faith, the settler must pay one-fifth of the appraised value of the land upon entry, and before any commutation can be made there has to be a residence of fourteen months, and one-fifth more paid. So all questions as to the good faith of a homesteader are abundantly provided for.

The VICE-PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from Oklahoma.

The amendment was rejected.

The bill was reported to the Senate as amended, and the amendments were concurred in.

Mr. GORE. I desire to submit in the Senate the amendment which I offered in Committee of the Whole.

The VICE-PRESIDENT. The Secretary will state the amendment.

The Secretary. It is proposed to add, at the end of section 2, the following proviso:

Provided, That applicants to enter said lands shall be allowed to forward their applications by registered mail to the authorities of the local land office, under such rules and regulations as the Secretary of the Interior may prescribe.

The VICE-PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from Oklahoma.

Mr. GORE. I should like to have a yea-and-nay vote on the amendment. I do not care to discuss it further.

The yeas and nays were not ordered.

The amendment was rejected.

The VICE-PRESIDENT. The question is, Shall the bill be engrossed for a third reading and read the third time?

Mr. DAVIS. I suggest the absence of a quorum.

Mr. GAMBLE. Mr. President, I rise to a point of order.

The VICE-PRESIDENT. The Senator from South Dakota will state it.

Mr. GAMBLE. I do not think any business has been transacted since the last roll call.

Mr. LODGE. We have taken two or three votes.

Mr. GAMBLE. The same question has just been raised, and it is only dilatory.

The VICE-PRESIDENT. The Chair thinks business has intervened. The bill has progressed from the Committee of the Whole to the Senate, and the Senate has acted upon an amendment.

Mr. DAVIS. Two amendments, Mr. President.

The VICE-PRESIDENT. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Bacon	Clapp	Frye	Nixon
Bankhead	Clark, Wyo.	Gallinger	Oliver
Beveridge	Crawford	Gamble	Overman
Borah	Cullom	Gore	Owen
Bourne	Cummins	Hughes	Page
Bristow	Davis	Johnston	Piles
Brown	Depew	Jones	Shively
Bulkeley	Dixon	Kean	Simmons
Burkett	Dolliver	La Follette	Smoot
Burnham	du Pont	Lodge	Stephenson
Burrows	Elkins	McCumber	Stone
Burton	Fletcher	McEnery	Taliaferro
Chamberlain	Flint	Money	

Mr. BACON. I do not think it is necessary to repeat the announcement already made as to the cause of the absence of my colleague [Mr. Clay].

Mr. KEAN. I desire to announce that my colleague [Mr. Briggs] is necessarily absent.

Mr. DU PONT. My colleague [Mr. Richardson] is necessarily absent from the city.

Mr. ELKINS. I wish to announce that my colleague [Mr. Scott] is necessarily detained from the Senate.

The VICE-PRESIDENT. Fifty-one Senators have responded to their names. A quorum of the Senate is present. The question is, Shall the bill be engrossed for a third reading and read the third time?

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

[45 Cong. Rec. 1215]

SENATE BILLS AND RESOLUTION REFERRED.

Under clause 2 of Rule XXIV, Senate bills and resolution of the following titles were taken from the Speaker's table and referred to their appropriate committees, as indicated below:

S. 183. An act to authorize the sale and disposition of a portion of the surplus and unallotted lands in the Rosebud Indian Reservation, in the State of South Dakota, and making appropriation and provision to carry the same into effect—to the Committee on Indian Affairs.

[45 Cong. Rec. 1752 (1910)]

REPORTS OF COMMITTEES ON PUBLIC BILLS AND
RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. BURKE of South Dakota, from the Committee on Indian Affairs, to which was referred the bill of the Senate (S. 183) to authorize the sale and disposition of a portion of the surplus and unallotted lands in the Rosebud Indian Reservation in the State of South Dakota, and making appropriation and provision to carry the same into effect, reported the same with amendment, accompanied by a report (No. 429), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

[45 Cong. Rec. 5456-5473]

LANDS IN ROSEBUD INDIAN RESERVATION.

Mr. BURKE of South Dakota. Mr. Speaker, I now call up the bill S. 183, and ask that the title of the bill may be read, because I presume we will go into the Committee of the Whole House on the state of the Union.

The SPEAKER. The Clerk will read the title of the bill.

The Clerk read as follows:

An act (S. 183) to authorize the sale and disposition of a portion of the surplus and unallotted lands in the Rosebud Indian Reservation, in the State of South Dakota, and making appropriation and provision to carry the same into effect.

The SPEAKER. Under the rule, the House is in Committee of the Whole House on the state of the Union for the consideration of the bill the title of which has just been read. The gentleman from New Hampshire [Mr. Currier] will take the chair.

The CHAIRMAN. The House is in Committee of the Whole House on the state of the Union for the consideration of the bill (S. 183), which the Clerk will report.

Mr. BURKE of South Dakota. Mr. Chairman, I ask that the first reading of the bill be dispensed with, and, when the bill is taken up under the five-minute rule, that the substitute be read in lieu of the original.

The CHAIRMAN. The gentleman from South Dakota asks unanimous consent that the first reading of the bill be dispensed with, and that, when the bill is read under the five-minute rule for amendment, the substitute be read in lieu of the original bill.

Mr. MANN. As an original bill itself, so far as amendments are concerned.

The CHAIRMAN. As an original bill, so far as amendments are concerned. Is there objection?

There was no objection.

Mr. BURKE of South Dakota. Mr. Chairman, this bill is in line—in fact, almost a duplication—of bills that have heretofore passed and become law, proposing to dispose of surplus and unallotted lands of the different

Indian reservations of the country. This particular bill refers to that portion of the Rosebud Reservation in South Dakota known as Mellette County. There is contained in the tract affected by the legislation about 800,000 acres of land. The Rosebud Reservation is one of the separate reservations created out of the original Sioux Reservation by the department and, later, the act of Congress of 1889. There are about 5,000 members of the Rosebud tribe. In the early nineties a treaty was made with these Indians by which they agreed to cede to the United States so much of their surplus and unallotted lands as were located in Gregory County. The price to be paid for the lands was \$2.50 an acre. Owing to objections here and elsewhere it was impossible to secure a ratification of that treaty.

In the Fifty-seventh Congress, if I am correct about it, we enacted a law amending that treaty and changing it in this respect. Instead of paying to the Indians \$2.50 an acre, the price agreed upon, we provided that the lands disposed of in the first three months after the opening should be sold at \$4 an acre; the next three months, \$3 an acre; and lands disposed of after six months, \$2.50 an acre; then, after four years after the opening, the undisposed of lands were to be sold without any conditions as to residence or compliance with the homestead law, and sold outright. The passage of the Rosebud bill was the beginning of the legislation that has since been enacted, relative to the sale and disposition of surplus and unallotted lands in Indian reservations.

Now I yield to the gentleman from New York.

Mr. GOLDFOGLE. Why was that sliding scale downward fixed?

Mr. BURKE of South Dakota. On the theory that the first lands to be entered upon were more valuable.

Mr. GOLDFOGLE. These lands were to be purchased from the Indians, were they?

Mr. BURKE of South Dakota. These lands were being sold by the Government for the benefit of the Indians.

Mr. GOLDFOGLE. Was there not more chance of people waiting until the period expired for the higher price, and then purchasing the property at a lower price?

Mr. BURKE of South Dakota. There were 2,500 160-acre lots to be disposed of, about one-fourth of which was rough land along the Missouri River, and unfit for homestead settlement. Notwithstanding there were only about 1,500 or 1,600 tracts that were suitable for homestead purposes, 105,000 people participated in the registration when these lands were disposed of. So I may say to the gentleman that there was no waiting in connection with the matter. On the contrary, the lands were taken at the higher price and in fact were not worth at the time the price that was required to be paid by the entrymen.

Mr. GOLDFOGLE. I did not hear the full reading of the bill. What is the purpose you desire to reach by this pending measure?

Mr. BURKE of South Dakota. The pending measure is a proposition to sell other lands of this same tribe of Indians in another portion of the reservation, known as Mellette County. I am going to lead up to that after I have briefly given a description of the sales of this reservation that have been made heretofore. And I may say to the gentleman, while it is anticipating what I was going to say, that the price of the land to be sold under the pending bill is determined by appraisement and not fixed in the bill, as was the case in the original bill which I have referred to.

Mr. GOLDFOGLE. Who is to appraise the lands?

Mr. BURKE of South Dakota. Well, now, the gentleman is anticipating my argument. I wish he would allow me to proceed; but I will answer his question. It is to be appraised by three persons—one a member of the tribe of Indians, another an inspector or special agent or some person in the employ of the Government in the Interior Department, and the third by some citizen of the State in which the land is located, creating a commission of three.

Now, if the gentleman will allow me to proceed, when I get down to the pending bill I shall be glad to answer any questions that he may ask.

Mr. Chairman, in the original Rosebud bill the Government had contracted to buy of the Indians 1,040,000 acres of those surplus lands, and if they were disposed of under the terms of the bill as it finally became law, the Indians would not receive that amount of money, and no person anywhere made any objection to the passage of the bill upon any other ground than that it would not bring as much money as we had promised to pay if the treaty had been ratified.

It was the opinion of those of us who had to do with the legislation that it would bring considerably more than \$1,040,000; and I want to say for the information of the House that there has been received and gone into the Treasury from that opening up to the present time over a million and a half of dollars, and that the Indians will benefit by reason of amending the treaty to the extent of half a million dollars.

In the Fifty-ninth Congress a bill was passed affecting other lands of this same tribe of Indians, namely, the surplus and unallotted lands in Tripp County. That bill was almost identical with the pending measure, except that it fixed the price of the lands very similarly to the

former bill and provided that for the lands taken in the first three months the price should be \$6 an acre; in the next three months, \$4 an acre; and thereafter \$2.50 an acre. The filings upon that land only began in April a year ago, as I recall, and all the lands that are at all desirable or upon which a settler is sure of making a living have been taken, and one-half of the lands were taken at the higher price, namely, \$6 an acre. To be accurate, I think 1,911 entries were made out of 4,000, so about one-half went at the higher price.

The pending bill is along the same line as the others that have been passed and to which I have referred, except that it follows a plan that was adopted in a bill that was passed in the Sixtieth Congress, proposing to dispose of a portion of the surplus and unallotted lands of the Cheyenne and Standing Rock Indians in South Dakota; and instead of fixing the price, it provides for the appointment of appraisers, as I have already stated to the gentleman from New York in reply to his inquiry.

The lands in the Cheyenne and Standing Rock reservations, which were appraised under a provision similar to the one in this bill, were classified, and those of the highest class were appraised at \$6 an acre, and they ran down as low as 50 cents, but very little at a price as low as that. I think the minimum price, with possibly a few exceptions, is about \$1.50 an acre.

The bill meets with the approval of the Indians. They have given their assent, having been negotiated with by a special agent of the Department of the Interior. The original treaty made in 1889 with these Indians provided expressly that after the lands had been allotted to the Indians the surplus lands should then be disposed of under the provisions of the homestead law.

It also provided that the proceeds from the sale of the surplus unallotted lands should be placed in the Treasury to the credit of the Indians; not paid to the Indians, but that it should be subject to appropriations by Congress for the support, civilization, and education of the members of the tribe.

I may say that since the treaty of 1877 Congress has appropriated annually an amount that would probably average in all, for the support of the Sioux Indians, a million dollars, and we are obligated under the terms of the treaty of 1877 to provide for all time, or until such time as they may become self-supporting, for their care, support, and education. And for the first time in this present Congress there has been an appropriation for the support of the Cheyenne and Standing Rock Indians out of money in the Treasury to their credit, received from the sale of surplus lands, thereby relieving the Government from the obligation to that extent that it has heretofore been under in supporting these Indians. And I will state that, so far as these particular Indians are concerned who are affected by this bill, there will probably never be any other appropriation made out of the funds in the Treasury except such funds as are there to the credit of the Indians.

Mr. MONDELL. Would it be agreeable to the gentleman at this time to yield to me for an inquiry?

Mr. BURKE of South Dakota. I yield to the gentleman for a question.

Mr. MONDELL. I notice on page 16 of the bill provision is made that all lands remaining undisposed of at the expiration of four years from the opening may, in the discretion of the Secretary of the Interior, be reappraised in the manner provided for in this act. I do not understand that that reappraisal would in any way

affect the disposition of the lands so reappraised, which would still remain subject to homestead entry.

Mr. BURKE of South Dakota. They would still be subject to homestead entry for a period of three years, and then after seven years the lands remaining undisposed of would be disposed of regardless of requiring homestead residence and settlement.

I might say, Mr. Speaker, that there are two propositions to be considered in disposing of the unallotted and unused lands on Indian reservations. One is, at the earliest possible date, to get among the Indians the white men, and have those lands that are of no benefit to anyone, that are lying idle, doing no good, opened up and developed into farms, and I believe that the placing through what were heretofore reservations actual settlers will have the effect of civilizing the Indians who will have allotments and also give value to these allotments which at present are of very little value.

It might be interesting at this point to show to the House a map, so that the committee may have some idea of what lands are disposed of and what lands are allotted to Indians. These squares upon the map represent a township 6 miles square. The land in black has all been allotted to the Indians. The lands that are to be disposed of under the homestead law at \$6 an acre are the lands that appear in red. It will be noticed that wherever there is a stream every foot of the land has been taken, and the upper lands are all that are left for the poor fellow that has to go in there and comply with the requirements of the homestead law, in addition to paying \$6 an acre for the land and for twenty-five years paying all of the taxes that may be raised for the support of the schools and the roads and the bridges and the courts. It will be readily seen that it

is not much of an inducement for a person to go into a country like that and try to acquire title to land under these conditions, and it will be readily appreciated that if these lands that are in red and white are improved and settled upon by white men, it adds great value to the Indian allotments adjoining.

In addition to that, just as soon as these reservations are opened up and settled railroads usually come in and thereby give greater value to the lands owned by the Indians. The lands in black are the allotments and those in red are the lands homesteaded up to the time this map was made.

I have here a map showing the allotted lands in a bill that will follow this one in the Pine Ridge Reservation, and the bill is identical with the one under consideration in every respect, only it describes land in the reservation adjoining on the west, and I may say that the yellow on the map I hold in my hand shows the lands the Indians have taken for allotment, and you will notice some townships they have taken practically solid. In other words, if a man goes into that township and settles on that land, he and five others will have to be assessed for all moneys that may be raised by assessments for the next twenty-five years. So that it will be seen that when the price is fixed, as it usually is, at \$6 an acre for the choice lands, under all of the circumstances it is a reasonably high price, when you consider that the purchaser must comply with the requirements of the homestead law as to residence and improvements.

Mr. MANN. Will the gentleman yield for a question?

Mr. BURKE of South Dakota. Yes.

Mr. MANN. The gentleman says that \$6 an acre is a high price for the land under all of the circumstances,

and I quite agree with him. I would like to ask him what would that land be worth in a country if there were no Indians there at all and it was all subject to cultivation and taxation, providing for schools and the other accessories of white people?

Mr. BURKE of South Dakota. It is almost impossible to say what such lands are worth. The Sioux Reservation, when it was divided up by the act of 1899, opened to settlement 9,000,000 acres in round numbers between the White and the Cheyenne rivers and the country lying immediately west of the Missouri River, right across the river from where I reside.

The land was open to homestead settlement, the terms being that, in addition to complying with the law as to residence and improvements, they were required to pay \$1.25 an acre for all lands taken within two years. Then the price was reduced to 75 cents an acre, and then later on it was reduced to 50 cents an acre. Up to 1900, or about 1900, there had been less than 500,000 acres of that taken up, and much of that which had been taken was abandoned, and, as I recollect, title to something like 100,000 acres of land had been acquired.

Now, the gentleman will recall that in the Fifty-sixth Congress there was some legislation known as the free-homes legislation, and the terms of payment, so far as that land was concerned, were changed, and if a person resided upon the land for five years, he did not have to pay anything for it. If they commuted, they had to pay the Indian price of 50 cents an acre.

Now, after the passage of the free-homes legislation there began to be some demand for this land, and it ran along until in 1904 or 1905, and all of a sudden there commenced to be a rush and people went in there in large numbers, so that that country has been very

largely filed upon. The lands are selling there now where there is title for \$10 and \$15 an acre, and in some instances less than \$10 an acre. Now, up to this change in conditions lands east of the river that to-day are selling for \$20 and \$30 an acre were going begging at prices ranging from \$1 to \$5 an acre. I may say that in 1898 and 1899 I had to do with the sale of lands in separate tracts amounting to over 12,000 acres, with taxes paid, patents of record, abstract of titles, in each case, at \$1 an acre, and the syndicate that bought the land bought about 40,000 acres at about that price. They paid a little more for tracts that they were desirous of getting to adjoin others that they had purchased. Now, here has been this condition of emigration flowing into the country, a great demand for land, and, fortunately, conditions that have been favorable for farming, and high price of farm products, and so forth, until at present there is such a demand for the land that I do not know whether the price helped the value or not. I am sometimes inclined to think that perhaps it is inflated somewhat.

But to come back now to the question asked by the gentleman from Illinois, if this land was to be disposed of outright and there was to be no requirement of settlement and there was no limitation as to the amount that a person might acquire, as to what it might bring, I do not know; I would say \$10 an acre, perhaps. I do not know.

Mr. MANN. What is this land used for in the main, where it is taken?

Mr. BURKE of South Dakota. For farming.

Mr. MANN. I understand that; but what character of farming?

Mr. BURKE of South Dakota. The raising of all kinds of small grain, and where this land is located they

grow corn successfully. This county is just above the Nebraska line. There is one county between this county and the Nebraska line. It is in the western part of the State, and in the section that has always been regarded as semiarid, and if the gentleman has ever been out in Nebraska, on the northwestern line, northwest from Omaha, I think he will recall about where Valentine, Nebr., is, and that is about due south from the land affected by this bill.

Mr. MANN. Is this land mostly for actual cultivation or for grazing?

Mr. BURKE of South Dakota. Well, it has always been used for grazing purposes, and my own opinion is that it is very much more suitable for stock raising than for raising grain.

Mr. MANN. At some point in the gentleman's argument I wish to ask him another question.

Mr. BURKE of South Dakota. I will be very glad to have the gentleman ask any question.

Mr. MANN. The bill provides that any lands remaining unsold after they have been opened to entry for seven years shall be sold to the highest bidder for cash without regard to the prescribed price fixed under the provisions of this act. Would not that, or would it, authorize the sale of large tracts of land if there remained such tracts of land to syndicates or other large purchasers?

Mr. BURKE of South Dakota. I will say that if I had been drawing this bill twenty years ago I might not have put in this provision. But experience has demonstrated that there is such a demand for land that every foot of it that it is possible for a person to even imagine that he can make a living upon is acquired under the homestead law.

Mr. MANN. Then, I can not imagine the necessity of having that provision in.

Mr. BURKE of South Dakota. Wait a minute. I was going to say that the purpose of the provision is to make it possible to close up the transaction so as to know just how much money is going to these Indians and get it into the Treasury without future legislation. Now, let me tell you what happened with a similar provision in the Gregory County bill, that I referred to in the opening part of my remarks.

It was thought that there would be probably 100,000 acres of land that never would be homesteaded. That was along the Missouri River, much of it perpendicular and much of it gumbo, without anything growing upon it. The homesteaders went in and they kept taking the lands that were undisposed of and going up in the ravines; wherever there was a little strip of fertile land it was taken up by the homesteader. Last year, when they came to dispose of the remaining portion of the lands, there was less than 50,000 acres, and they sold, as I recall now, at \$4.70 an acre—something like that, nearly \$5 an acre—sold at public auction in tracts of 80 and 40 acres. In that legislation there was a limitation, as I recall, that no one person should purchase more than 640 acres. I believe that was put in by the gentleman from Texas. I have no objection to such a limitation, but it does not mean anything.

Mr. MANN. But it does mean a great deal, I will say to the gentleman.

Mr. BURKE of South Dakota. It does not mean anything, because if the gentleman was to go and purchase the land without a limitation, he would have as many people present as he wanted to buy tracts equal to the limitation, and there is nothing to prevent it. Another thing, I may say to the gentleman, it is not

likely that there will be in this reservation anything more than small tracts of 40 and 80 acres. This is different than the Gregory County tract, because that was upon the Missouri River and had bluffs. This is all prairie land, excepting as it may be broken up by little streams running through it, some of which do not have any water in them during several months in the year.

Mr. MANN. The gentleman says it is no good to put a limitation in the bill, because the purchasers may sell their property to a single individual. That is true under the homestead law, and yet no one will suggest that that is any reason for not providing for homesteads. The homesteader does not have to live on his land very long until he can commute.

Mr. BURKE of South Dakota. Fourteen months under the present law.

Mr. MANN. He may sell his land, and 50 of them may sell their lands to a single individual; yet, as a rule, that would not often be the case, if it ever is.

Mr. BURKE of South Dakota. When we reach the consideration of the bill under the five-minute rule, if the gentleman desires to offer an amendment to limit it to 100 acres or 150 acres or 200 acres, I have no objection, because I really do not think it amounts to anything. I do not object to it for that reason. I was taking into consideration the interest of the Indian who will be benefited by the sale of this land.

Mr. MANN. They will get a great deal more than they are entitled to anyhow.

Mr. BURKE of South Dakota. That may be. But remember that in this instance it goes into the Treasury and is not paid to them, not a cent of it, and never will be if I can prevent it from being done.

Mr. MANN. But we have to pay the interest on it.

Mr. BURKE of South Dakota. But I was going to say that some people have more confidence about the purchase of leftover lands than other people have. A syndicate might form and go out there and buy a large amount of these surplus lands that would be undisposed of, and use it for trading purposes, and sell wherever they could, because they would have to sell it probably somewhere else than upon the land, and it would bring a greater price than if it were limited as to the area that any one person might purchase.

Mr. MANN. Well, it may be true that it would bring a bigger price to sell the entire area to any one person.

Mr. BURKE of South Dakota. No one would wish to do that.

Mr. MANN. But we are paying the Indians not for value which they have put on the land, but we are paying the Indians for a value which we have made upon the lands.

Mr. BURKE of South Dakota. I am very glad that there is one gentleman that lives east of the Mississippi River that appreciates that fact.

Mr. MANN. I think a majority of the Members of this House who live east of the Mississippi River appreciate that fact, and only regret that they have never been able to get it into the heads of the gentlemen who represent the territory where the Indian reservations are. Now, if the gentleman will permit, what I was going to ask the gentleman was, if he would be satisfied to strike out this provision of the bill providing for the sale of these lands to the highest bidder, but leave it so that it may be utilized for homestead purposes?

Mr. BURKE of South Dakota. Mr. Chairman, I have no objection to it whatever, except this: I know that it will require future legislation.

Mr. MANN. Why?

Mr. BURKE of South Dakota. Simply because before seven years have rolled around over half of this land that will ever be taken as a homestead, even if you should leave it for fifty years, will be taken, unless something very unusual happens.

Mr. MANN. The gentleman knows that not very many years ago in the Dakotas, which the gentleman and his colleagues so very ably represent, the people were moving away, if they could borrow, beg, or steal money enough to get away from there. Yet on those same lands many happy families are making more than a comfortable living now.

Mr. BURKE of South Dakota. In reply to the gentleman's reference to my State, I may say to him that from experiences had in the great city, a part of which he so ably represents upon this floor, I gained the impression that the conditions that prevailed in my own State were not confined within the limits of that State, but that they extended even into the great city of Chicago.

Mr. MANN. I am not speaking of the time of the panic. The gentleman understands very well that in nearly all of the western country where there is not plenty of water there have been times when settlers, as a result of a series of years of drought, have given up and gone away, have done their best to get rid of their lands on any terms. It is no reflection upon the country at all. Then in a short time people have learned that those same lands, when properly cultivated under favorable conditions, were just as valuable as any lands that could well be found. Now, the gentleman assumes that this land will not be taken for homestead purposes.

Mr. BURKE of South Dakota. I was going to say to the gentleman that under the law which provided that

the price should be \$6 an acre in Tripp County, as I stated in my opening remarks, out of 4,000 tracts to be disposed of, 1,911 tracts were taken at the highest price of \$6 an acre.

Mr. MANN. There is no limitation on the price in this bill.

Mr. BURKE of South Dakota. In the bill that is under consideration the price is to be fixed by appraisement.

Mr. MANN. And subject to reappraisement?

Mr. BURKE of South Dakota. And subject to reappraisement.

Mr. MANN. So that there is no limitation as to price?

Mr. BURKE of South Dakota. The only purpose of the provision that the gentleman is talking about is to complete the legislation. I may say that I have no interest in it further than I believe there ought to be some time fixed when this transaction will be completed so far as the Indians are concerned.

Mr. MANN. Oh, well, if this land should not all be taken up in seven years nobody is going to be specially injured by it; but the moment the land is taken up and becomes cultivated, say during the period of seven years, and people make it somewhat valuable, somebody will come in and take as homesteads the tracts of land that are left. I can easily remember—and I am not more than twice as old as the gentleman—a time in the State of Illinois when there was plenty of land that you could not persuade anybody to take for a homestead. Now you can not find any land there to take as a homestead.

Mr. BURKE of South Dakota. I know exactly what the gentleman has in mind; but with the conditions that have prevailed in this same locality it has been, and is

now, my opinion that practically all the land will be taken, just as was done in Gregory County, and the tracts that will remain undisposed of will be fragmentary.

Mr. MANN. If that be the case, what is the use of leaving this provision in the bill, so that if this land is not all taken within seven years the department will be urged by somebody to sell it out, perhaps in large tracts?

Mr. BURKE of South Dakota. I have stated to the gentleman that I have no pride of opinion as to that provision. I put it in and have given my reasons for putting it in. I believe it ought to remain there, because I believe that any administration, under conditions such as the gentleman has in mind that might arise, would bring to the attention of Congress the advisability of extending the seven-year period as might be thought desirable.

If this legislation was going to have any such effect as the gentleman anticipates it might have, there would be a suggestion to repeal it or enact something in its place. I will admit that it is legislating in advance, and for that reason I am not particularly concerned about it; but the gentleman knows that we have in every Congress bills coming in affecting some prior legislation, because the original legislation was not complete; and I call your attention to the Gregory County case. We have never had such legislation, so far as Gregory County is concerned, and it is closed up.

Mr. MANN. No; but I call the attention of the gentleman to this proposition: Legislation is largely a matter of precedent. The gentleman who prepared this bill may have had some other bill, some law, upon which to base the bill—

Mr. BURKE of South Dakota. Mr. Chairman, the first legislation of this kind was in the bill opening Gregory County, which passed the Fifty-seventh Congress, and that provided that the undisposed land should be sold after four years, and then the next bill that passed was for Tripp County, and, as I recall, that has this provision. Now, the bill that passed in the Sixtieth Congress, when I was not here, contained exactly this provision for Standing Rock and Cheyenne counties, and so the precedent is being followed, as the gentleman insists.

Mr. MANN. But, Mr. Chairman, I have not yet made my point. I say legislation is largely a matter of precedent. The gentleman puts this provision in this bill reported from his committee and says that it probably would not have any very great effect, so far as this particular opening is concerned, but it becomes a precedent. Now, there are a great many places in the United States still remaining as Indian reservations which will have to be opened within the space, probably, of a few years' time. Much of the land in those reservations is not suitable at all, in all probability, for homestead purposes.

I do not want to see any legislation which will permit a single owner or a single syndicate to acquire a large tract of land anywhere in the United States directly from the Government, and if these provisions remain in these bills, they form the precedents from which are drawn other bills, and gentlemen interested in the other bills will say, "Well, you have it in your bill, and so it ought to be in my bill," and the first thing you know we have propositions where people will acquire 100,000 acres in a tract.

Mr. BURKE of South Dakota. Mr. Chairman, I appreciate what the gentleman says, and will state for

his information that legislation similar to this was enacted in the law that authorized the sale of the Wind River and Shoshone reservations in Wyoming, and I have had under consideration the question of amending that law, because just such a condition as the gentleman speaks of is liable to occur in that reservation. The land is arid, and only a very small part of it has gone under the homestead law, because people could not make a living there, and we extended in the Indian appropriation act the provisions of the Carey Act to that reservation for the purpose of making it possible to have it settled upon and developed; and, recognizing the gentleman's argument, I will have no objection to this going out. I put it in to fit this particular case, and I appreciate fully that it does establish a precedent that will be followed and adopted where perhaps it ought not to be. However, so far as this reservation is concerned, I am personally familiar with the conditions, and I know it would not only do no harm, but would end the thing without further legislation.

Mr. MANN. Mr. Chairman, I may say to the gentleman, without detaining the committee, that a few years ago we had up here a proposition to sell, either directly or indirectly, one or two hundred thousand acres of land, as I understand it, to a syndicate for game purposes—to organize a game preserve or sporting preserve, or something of that sort. Congress did not see fit to pass the bill. I have been told that while at the time the bill was pending it was represented to us that the land was absolutely valueless for any other purposes, much of it is now settled upon by homesteaders, and it is just such things as that that make me question the desirability of precedents of this kind. I wanted to ask the gentleman one more question.

Mr. BURKE of South Dakota. Mr. Chairman, how much more time have I remaining?

The CHAIRMAN. Ten minutes.

Mr. MANN. Mr. Chairman, this bill takes the place of House bill 12437. In House bill 12437, as originally introduced, it provided for the payment of 3 per cent interest on the money deposited in the Treasury realized from the sale of these lands.

The committee reporting the bill has reported it with an amendment striking out 3 per cent and providing for the payment of 5 per cent interest, but in the substitute bill, which the committee now reports in lieu of the Senate bill, or Senate bill 183, the committee reports 3 per cent interest. I do not know whether that is an inadvertence or whether there is any reason for that. If there is any reason for it, I wish the gentleman would give the reason.

Mr. BURKE of South Dakota. I will say to the gentleman that for some time I have taken the position that where moneys go into the Treasury, unless there is a treaty provision requiring a high rate of interest to be paid, we ought not to pay more than 3 per cent—

Mr. MANN. I agree with the gentleman.

Mr. BURKE of South Dakota. I do, however, believe in observing any treaty obligation there may be on the part of the Government, unless there is some reason for doing otherwise.

Now, so far as this tribe of Indians is concerned and the other members of the Sioux tribe, when the treaty of 1889 was made it was fully expected that the surplus lands, after the allotments had been made, would be purchased by the Government from the Indians, as had been the practice, on the basis of their only having the right of occupancy, and that the consideration in any event would not be more than

\$1.25 an acre. Now the treaty of 1889 does provide that the proceeds from the sale of these lands shall go into the Treasury and be placed to the credit of the Indians and bear 5 per cent interest, and that the money shall be subject to appropriation at all times for their care, support, and civilization.

Now, having changed the policy of disposing of the surplus lands on the theory that the Indian was the owner of the land, and disposing of them for all that we can get out of them, which is a price averaging three or four times what they would have received had we carried out the policy that had previously prevailed, I feel that we are entirely justified in reducing the rate of interest from 5 per cent, provided in the original agreement, to 3 per cent. We are assuming now, in addition to looking after their education and moral welfare, to act as a trustee to manage and dispose of property and invest the proceeds for the benefit of the Indian, and, so far, without making any direct charge for the service. I believe that inasmuch as we are giving to the Indian indirectly, if not directly, a so much greater amount than was anticipated he would receive, we would be justified in fixing the rate of interest at 3 per cent instead of 5.

Mr. MANN. Then, in that connection, while it has been the historic policy of the Government to pay \$1.25 an acre for the school lands, where it paid anything, donated to the State, we have now changed that policy and pay \$2.50 an acre in these recent bills?

Mr. BURKE of South Dakota. We are paying \$2.50 an acre. That is what we agreed to in the treaty to pay the Indians in Gregory County, and it is believed that inasmuch as the lands are selling for \$4 and \$6, it would hardly be right to require them to accept as low

an amount as \$1.25, and \$2.50 was a compromise on the same basis that 3 per cent would be a compromise between 5 per cent and 1 per cent.

Mr. MANN. The gentleman says that we agreed by treaty to do that. He means the agent represented we would do it, without any authority.

Mr. BURKE of South Dakota. I said the treaty for the sale of that portion of the Rosebud Reservation, part of this same reservation, that was entered into for the sale of Gregory County. In that case the Government obligated itself to pay \$2.50 an acre for all the land, including sections 16 and 36, and then it was contemplated that the land should be disposed of at \$2.50 an acre, and sections 16 and 36 went to the State. So the Government paid for the school sections.

Now, Mr. Chairman, I call for a reading of the bill, unless some gentleman desires some time or wishes to ask some questions.

Mr. BARTHOLDT. I would like to be heard in opposition.

Mr. BURKE of South Dakota. I reserve the balance of my time.

Mr. BARTHOLDT. Mr. Chairman, I want to call the attention of the committee to section 10 of this bill, which seems to me—

Mr. BURKE of South Dakota. Will the gentleman consent to an interruption?

Mr. BARTHOLDT. Yes, sir.

Mr. BURKE of South Dakota. Does the gentleman think that the section is not drawn sufficiently drastic to protect the Indians and to make it impossible for liquor to be introduced in the country affected by the section?

Mr. BARTHOLDT. I want to ask my own questions, if the gentleman will permit me. In the first place, I

would like to ask him whether by this bill or by previous legislation these Indians have been granted the right of citizenship when living on allotted lands?

Mr. BURKE of South Dakota. I may say to the gentleman that all Indians that were allotted prior to May, 1906, and I will also say that most of the Indians on this particular reservation were allotted prior to May, 1906, by reason of their allotment, are citizens of the United States under a decision of the Supreme Court interpreting the general allotment act of 1887.

Mr. BARTHOLDT. If that is true, Mr. Chairman, then this provision is wholly unnecessary, for as I read a decision recently rendered by the Supreme Court in the Albert Neff case, an Indian who lives on allotted land becomes subject to the laws of the State and is free from police regulations by Congress. According to that decision we would have no right, either by this bill or at any time, to make a police regulations for the conduct of the Indian, because as a citizen and enjoying citizen's rights he would be subject to the laws of the State—in this case, of South Dakota. I notice, too, that this section is more drastic than similar sections passed by this House in similar bills. The old sections relating to this subject contained a limitation of twenty-five years, while this new section imposes prohibition upon the settlers on these lands, whether they are Indians or white settlers, for all time to come. In comparing the bills, I notice that this exact section 10, contained in this bill, was contained in another bill. It was stricken out by the action of the committee itself, and a more lenient section, limiting the time, was inserted by the committee.

Now, I should like to ask the distinguished chairman of the committee why he deems it necessary to insist on this section rather than the one that was usually inserted in bills of this kind?

Mr. BURKE of South Dakota. I will say to the gentleman, that until my attention was called to it I understood the provision was the same as in the other bills, with a twenty-five-year limitation.

Mr. BARTHOLDT. It is not.

Mr. BURKE of South Dakota. I will state that at the proper time I will probably offer to substitute the same language adopted in the other bills. I supposed that this bill was so drawn.

Mr. BARTHOLDT. If the gentleman will do that, while still not entirely satisfactory to me, I will accept it.

Mr. BURKE of South Dakota. I desire to do it, because I have some doubt about the section in its present form being sustained if it was so adopted.

Mr. BARTHOLDT. It will not be sustained if continued in its present form.

Mr. BURKE of South Dakota. I will be entirely frank with the gentleman.

Mr. GOEBEL. I just want a few moments.

Mr. BARTHOLDT. I think I better yield the gentleman time. How much time does the gentleman want?

Mr. GOEBEL. About ten minutes.

Mr. BARTHOLDT. I yield ten minutes to the gentleman.

Mr. GOEBEL. Mr. Chairman, in order that we may fully understand section 10, let me read that section:

Sec. 10. That every person who shall sell or give away any intoxicating liquors upon any of the land allotted or to be allotted, reserved, or disposed of within the tract described in section 1 of this act, upon conviction thereof shall be punishable by imprisonment for not more than two years and by a fine or not more than \$500, or by both such fine and imprisonment.

You will observe that by the act this provision becomes a stipulation running with the land, that there is no limitation upon time, so that these stipulations will continuously run with the land until the act itself is repealed. Any person who may purchase all or any part of this land takes it subject to the stipulations or covenants.

Now, it seems to me that, as a general proposition, it is unwise for the Government to insist upon such stipulations; they may affect the value of the land; not alone the value, but might lessen the number of bidders or might prevent the sale of the land. For you will observe that the purchaser or subsequent owner or owners may at all times be subjected to a penalty by imprisonment or fine, or both, for selling or giving away on his land any intoxicating liquors to any person, be he white, black, or red.

Mr. KAHN. Will the gentleman yield for a question?

Mr. GOEBEL. Yes.

Mr. KAHN. Does not the gentleman think that under that section as it is now worded, if a purchaser of the land were to plant grapes upon it and were to make wine out of the grapes, and were to give away a glass of wine made out of these grapes grown on his land, he would become amenable under this section?

Mr. GOEBEL. I think he would. Now, my friend from South Dakota [Mr. Burke], the chairman of the committee, is willing to accept an amendment which would limit this prohibition for a period of twenty-five years. Well, that is more reasonable; but I am opposed to the original proposition and to the limitation. I do not see the necessity for any legislation upon that subject. I suppose it is intended to protect the Indians or the white man from the Indians.

Mr. MURPHY. Will the gentleman yield to me for a question?

Mr. GOEBEL. Certainly.

Mr. MURPHY. If you wanted to have prohibition, do you not think there ought to be a limitation upon the land providing that if they sell liquor it shall revert to the Government?

Mr. GOEBEL. Congress, I assume, has the right to attach any reasonable condition to the sale of government lands, and if it has the right to prohibit the sale of liquors upon it, I assume also that Congress would have the right to stipulate as a condition that upon a violation the land shall revert back, but the money would have to be refunded to the purchaser. I doubt very much whether Congress would go that far.

Mr. STEPHENS of Texas. Is it not a fact—I have been told that it is—that South Dakota is a prohibition State by its constitution and laws?

Mr. STAFFORD. I can inform the gentleman, if my friend will permit me, that originally there was a constitutional inhibition.

Mr. STEPHENS of Texas. That is what I thought.

Mr. STAFFORD. But since then the citizens of that State, recognizing the impossibility of enforcing prohibitory laws where the sentiments of the people are opposed to such enforcement, have repealed that constitutional feature, and now it is a matter for the legislature to determine, and the State is no longer a prohibitory State by virtue of the constitution.

Mr. BUTLER. Do they have what is called local option?

Mr. BARTHOLDT. If the gentleman will permit me, even if South Dakota to-day were a prohibition State that merely corroborates the argument I made here, that this provision is wholly unnecessary.

Mr. STEPHENS of Texas. If it is a prohibition State, I do not think the United States Government should go in there and permit the sale of whisky at all; but permit me to say that I believe the State should control its own internal affairs.

Mr. BURKE of South Dakota. It is a matter for the municipalities to determine for themselves now.

Mr. BUTLER. Local option.

Mr. STAFFORD. But, to show the unfairness of this legislation, I wish to cite to the gentleman the action of this body many years ago, when we attached a similar provision for prohibition perpetually on reservation lands to be opened to settlement, when South Dakota had this constitutional provision forbidding the sale of intoxicants throughout the State. Since that time the State, in its good judgment in determining its internal policy, has decreed that it is no longer to have state-wide prohibition, and for good reasons. Yet the amendment that we attached to the bill opening some Sioux Indian lands to settlement still pertains, so that the law of Congress is binding in that little reserved tract against the determined policy of the State of South Dakota.

Mr. BURKE of South Dakota. Who has the floor?

Mr. STAFFORD. The gentleman from Ohio [Mr. Goebel] has the floor.

The CHAIRMAN. To whom does the gentleman from Ohio yield?

Mr. GOEBEL. I yield to the gentleman from Illinois [Mr. Sabath].

Mr. SABATH. I wish to state to the gentleman from Wisconsin [Mr. Stafford] that the gentleman in charge of this bill [Mr. Burke of South Dakota] has agreed to strike out section 10 and to substitute in lieu thereof another section.

Mr. BARTHOLDT. The twenty-five year limit?

Mr. SABATH. The twenty-five-year limitation.

Mr. STAFFORD. Has the gentleman from South Dakota explained the reason why this committee determined to engraft such a very far-reaching provision as that which is contained in this bill?

Mr. BURKE of South Dakota. Let me say to the gentleman—and perhaps it will prevent any extended discussion—that we have a bill that I expect to call up following this bill which is identical with it except as to territory, and this section which the gentleman is referring to is in the language I have stated I am going to substitute. The language that happens to be in this bill was in the original House bill as introduced, and in reporting the bill a copy of the original bill as introduced, and in reporting the bill a copy of the original bill was used by mistake. The section that the committee adopted is the section which I propose to offer as an amendment.

Mr. STAFFORD. Then, as I understand the gentleman, this recommendation is an inadvertence, and the committee did not intend to go to the extent of the folly that Congress committed years ago when they tried to determine the internal policy of the States for all time?

Mr. BURKE of South Dakota. What I desired to ask the gentleman from Wisconsin was, Who it is in South Dakota that is protesting against the conditions that prevail in what was formerly the Yankton Reservation, which is the only reservation disposed of with a prohibition condition?

Mr. STAFFORD. I assume, Mr. Chairman, that the people of South Dakota are capable of determining the policy which they wish to enforce within their borders.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BARTHOLDT. I yield five minutes more to the gentleman from Ohio.

The CHAIRMAN. The gentleman from Ohio [Mr. Goebel] is recognized for five minutes.

Mr. GOEBEL. Will the gentleman from South Dakota inform us just what his amendment is?

Mr. BURKE of South Dakota. The language is in the report, but I will hand the gentleman a bill which will show the language.

Mr. STAFFORD. I hope my friend from Ohio will allow me to answer the query propounded by the chairman of the committee before his time was concluded.

Mr. GOEBEL. Very well.

Mr. STAFFORD. Of course, Mr. Chairman, I am not particularly acquainted with the conditions that prevailed all over the State of South Dakota. It has been my pleasure to visit that State in prohibition days, and to have seen the so-called blind tigers. That was during the time when they had a state prohibitory law. I assume that the conditions have improved since then. I assume that the majority of the people of South Dakota were acting rationally and reasonably and intelligently when they determined to strike from their constitution that provision that had been found to be unworkable and a mere farce, so far as the enforcement of the liquor law was concerned.

Mr. MILLER of Minnesota. Upon what views does the gentleman base the statement that the attempt to enforce the liquor laws under that constitutional provision was a farce?

Mr. STAFFORD. As I said a few moments ago, Mr. Chairman, in reply to the inquiry of the chairman of the committee, I have had the pleasure of visiting South Dakota---

Mr. MILLER of Minnesota. Then the gentleman knows of his own experience that it is a farce out there?

Mr. STAFFORD. I have visited South Dakota, as I say, and it was a matter of common notoriety that anybody who desired to get liquor could get the vilest kind from these so-called black tigers—

Mr. KAHN. Blind tigers.

Mr. STAFFORD. Blind tigers—they might just as well be called black tigers as blind, because they sold such vile stuff, as bad as Montana whisky, that is reputed to be a combination of raw alcohol and tobacco juice.

Mr. SABATH. Has the gentleman tried that?

Mr. STAFFORD. I did not try to run up against any such proposition as that; but it was not difficult to obtain liquor all through that section of the country. The majority of the people, recognizing the inability to enforce a state-wide prohibition law, decreed that the constitutional provision should be abrogated and that it should be left to the legislature and to local communities to determine what should be their internal policy for the control of the liquor traffic.

Mr. BUTLER. Do we not understand that that is a local-option State?

Mr. STAFFORD. I am suggesting the reasons why the State of South Dakota repealed the provision in its constitution and left it to the legislature to determine the internal policy of the State.

Mr. BUTLER. I will say to the gentleman that if they put any provision in this bill authorizing the sale of liquor to Indians, a quorum will be required before the bill is passed.

Mr. STAFFORD. Oh, we are all in favor of restricting the sale of liquor to Indians.

Mr. GOEBEL. Mr. Chairman, the proposed amendment is not, of course, as drastic as the original provision.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BARTHOLDT. Mr. Chairman, I yield five minutes more to the gentleman.

Mr. GOEBEL. Mr. Chairman, if it was the intention to safeguard the Indian at a time when he was under the guardianship of the Federal Government, then it was proper that the Government should throw about him such restrictions as were absolutely essential for his welfare, but when he became a citizen of the United States, exercising all of the rights and privileges as such, then he stands in no higher or better position than any other citizen, and to extend to him this additional protection gives him rights not accorded to any other citizen.

Again, as a citizen, if the Indian be one, he is subject to all laws, and if the laws of South Dakota prohibit the sale of liquor to an Indian or to any person, then the Indian, or as a person, comes within the provisions of that law, and my contention is that Congress ought not to legislate for his particular benefit if all his rights and the rights of every other man is fully protected by the laws of the State.

So far as the Government is concerned, these two classes of Indians—Indians who are and Indians who are not citizens—over Indians who are citizens the Government exercises no further control. Indians who are not citizens are still under the control and guardianship of the Government.

Mr. MANN. Will the gentleman yield for a question?

Mr. GOEBEL. Yes.

Mr. MANN. Assuming that the General Government has some responsibility for the care of the Indians out of the National Treasury if they do not have funds with which to support themselves, which does not seem to be a violent assumption in view of the appropriations we make, does not the gentleman think the Government has such an interest in the Indians that it will properly protect them from penury and spoliation by preventing for at least a limited period the sale of liquor to them?

Mr. GOEBEL. Oh, I will concede that as long as the Indian is the ward of the Federal Government that the Federal Government has a right to impose any condition as to him. But that is not the question here. You are selling lands of the Government to anyone that might purchase.

Mr. MANN. We are selling lands of the Indians.

Mr. GOEBEL. Very well, put it that way, then. We are selling lands to the public. You are imposing now as a condition precedent a restriction or covenant with reference to the sale of intoxicating liquors upon these lands.

Mr. MANN. The gentleman understands that in the sale of these lands to the white people probably it may be a section adjoining a section owned by an Indian. It may be surrounded—they are all interlocked and interlaced—and that if the Indians do lose their property in the end, we will be asked to support them, and probably will do it, although we would not if I had my way about it.

Mr. GOEBEL. There would be no legal obligation to do so.

Mr. MANN. We just made an appropriation to take care of some Indians in Florida, and nobody knows how long ago they parted with their lands.

Mr. BUTLER. It is proposed, as I understand, by this bill to offer for sale to white men, or men of any color, these lands included within this reservation.

Mr. MANN. Unallotted lands.

Mr. BUTLER. Now, does the Government not still assume a guardianship over the fund of the Indians by retaining the amount that the lands sell for?

Mr. GOEBEL. What has that to do with the sale of the lands?

Mr. BUTLER. A good deal to do with the conditions.

Mr. GOEBEL. What has that to do with the condition which imposes—

The CHAIRMAN. The gentleman's time has again expired.

Mr. BARTHOLDT. How much time have I left, Mr. Chairman?

The CHAIRMAN. The gentleman has thirty-six minutes remaining.

Mr. BARTHOLDT. I yield ten minutes to the gentleman from Ohio [Mr. Goebel].

Mr. GOEBEL. Now, then, to answer the gentleman from Pennsylvania [Mr. Butler], you are imposing a restriction upon the purchaser of the land and also making it a covenant that runs with the land.

Mr. BUTLER. But I imposed the restriction before the gentleman purchased it. The gentleman will not be compelled to purchase the land.

Mr. GOEBEL. My answer is by asking you, Why do you throw this land open to the public—

Mr. BUTLER. The gentleman from Illinois stated the reason, which has satisfied me.

Mr. GOEBEL. The reason that is urged is that we ought to retain some control over the Indian; it is the Indian we are seeking to protect. Now, then, I am not

going to say that we ought not to protect the Indian. You still can protect the Indian under existing laws, and if he violates any law he will be punished.

Mr. BUTLER. Certainly the Indian will be punished, but how about the man who sells him rum?

Mr. GOEBEL. Or any person that might sell him liquor would be punished, under the general law. Coming back for the moment to the question whether or not we ought to specifically protect the Indian, who has become a citizen, and whether the police power of the State applies, let me read you the decision of the Supreme Court touching upon those questions.

Mr. BUTLER. That will be interesting.

Mr. GOEBEL. Let me say at the outset that the relationship of guardian and ward no longer exists between the Government and the Indian when he becomes a citizen. Now, then, this is the case—I am reading from the "Matter of Heff," in One hundred and ninety-seventh United States Reports. The court says:

The recognized relation between the Government and the Indians is that of a superior and inferior, whereby the latter is placed under the care and control of the former.

In this Republic there is a dual system of government, national and state. Each within its own domain is supreme, and one of the chief functions of this court is to preserve the balance between them, protecting each in the powers it possesses and preventing any trespass thereon by the other. The general police power is reserved to the States, subject, however, to the limitation that in its exercise the State may not trespass upon the rights and powers vested in the General Government. The regulation of the sale of intoxicating liquors is one of the most common and significant exercises of the police power. And so far as it is

an exercise of the police power it is within the domain of state jurisdiction. It is true the National Government exacts licenses as a condition of the sale of intoxicating liquors, but that is solely for the purposes of revenue and is no attempted exercise of the police power. A license from the United States does not give the licensee authority to sell liquor in a State whose laws forbid its sale, and neither does a license from a State to sell liquor enable the licensee to sell without paying the tax and obtaining the license required by the federal statute.

It does not apply to the allottee Indian, who has become a citizen under the act of February, 1887.

Mr. SABATH. May I ask the gentleman what case he is reading?

Mr. GOEBEL. I am reading the case of Matter of Heff, in One hundred and ninety-seventh United States. In that case the Supreme Court laid down the rule that the relationship of guardian and ward, in reference to the Indian who has become a citizen, no longer applies, and that the Indian would be subject to all of the laws of the State; that the regulation of the sale of intoxicating liquors comes within the exercise of the police power of the State. The Indian as well as the white man is fully protected by the laws of the State, and the Indian not a citizen is fully protected under the federal laws now in force.

The CHAIRMAN. Does the gentleman yield to the gentleman from New York?

Mr. GOEBEL. I yield to the gentleman.

Mr. PARSONS. In view of the decision of the Supreme Court which you read, the only way which Congress can do anything on its part to prevent the sale

of liquor to the Indians is by attaching a condition to the lands, as done in this bill. Is not that so?

Mr. GOEBEL. Why, not at all. Why attach a condition that if violated would be in violation of a state law?

Mr. PARSONS. But suppose Congress thinks that there may be certain localities in a State where public sentiment was not strongly in favor of laws against the liquor traffic, and that therefore it ought to do something for the benefit of the Indian; is not this the only way in which it effectively can do anything?

Mr. GOEBEL. That the Government may attach any reasonable conditions I do not dispute. I make no question as to the power of Congress; but is it advisable? If I am the purchaser of this land I would be subject to punishment under the laws now in force. What sense is there in attaching to this bill such provision, even with a limitation of twenty-five years?

Mr. PARSONS. Simply to make it doubly sure that liquors will not be sold to the Indians.

Mr. MURPHY. Why do we declare him to be a citizen of the United States if he is incompetent?

Mr. GOEBEL. Why, I am assuming that he can take care of himself.

Mr. GRONNA. Will you allow me to ask you a question?

Mr. GOEBEL. Certainly.

Mr. GRONNA. Does the gentleman not know that in communities where prohibition has existed for a number of years it does protect? This applies not only to the Indians, but to the white man. Furthermore, who would protect the white man from the Indians unless this provision is inserted in the bill prohibiting the sale of liquor to the Indians?

Mr. GOEBEL. If a man violates any state law, he should be amenable to the State.

Mr. GRONNA. If we open to settlement reservations in a State that has a prohibitory law, the gentleman well knows that there are no officials to look after either the white man or the red man, to begin with.

Mr. GOEBEL. Why, I do not know what the conditions are.

Mr. GRONNA. Well, I want to say to the gentleman that I do.

Mr. GOEBEL. I assume that you have laws that will fully protect you.

Mr. GRONNA. I understood the gentleman to say that he is opposed to the general law that applies to all these reservations.

Mr. GOEBEL. I am opposed to attaching to the sale of any reservation conditions such as are proposed in this bill.

Mr. GRONNA. Does the gentleman believe it would be safer on a reservation where liquors are permitted to be sold? Would the gentleman not buy land on a reservation where protection is given by the Government, even if such reservation is located in a prohibition State?

Mr. GOEBEL. Oh, I do not know what I would do. At present I would want to get the land without any conditions attached. You must also bear in mind that when the lands are sold there is no longer a reservation, and the laws of the States apply.

Mr. MILLER of Minnesota. Will the gentleman permit a question? I understand he is opposed to attaching this sort of a restriction to the sale of these lands. Can he suggest any other method by which the Indians can be protected?

Mr. GOEBEL. Under your state laws are the Indians not fully protected?

Mr. MILLER of Minnesota. In the State of Minnesota?

Mr. GOEBEL. Yes; in your State.

Mr. MILLER of Minnesota. Yes.

Mr. GOEBEL. Now, what further protection is necessary? Do you mean to say that you can not enforce your laws and protect the Indians?

The CHAIRMAN. The time of the gentleman has again expired.

Mr. BARTHOLDT. I yield five minutes more to the gentleman.

Mr. MILLER of Minnesota. That is not the question at all, as to what the State of Minnesota or the State of South Dakota may see fit on its own judgment to do. This is a question as to the attitude that Congress shall assume toward these Indians who are wards of the Government. If they need our protection until they secure allotments and for a period, we will say, of twenty-five years thereafter, is it not the duty as well as the power of Congress to give them that protection? And if the only way in which we can give them protection is to put restrictions on the land, should not that be done?

Mr. GOEBEL. It is the duty of Congress to protect the Indian so long as he is a ward of the Government, but the moment he becomes a citizen he passes beyond the control of the Federal Government and is subject to all the laws of the States, and the laws of the States ought to be looked to to protect him.

Mr. BURKE of South Dakota. Does not the gentleman think that during the period that the Government has control of the property of the Indian it also ought to have some voice in other things that affect him;

Mr. GOEBEL. Oh, but you do more than that in this bill. You are affecting the title to property. You are affecting rights of purchasers.

Mr. BUTLER. No; you have not any rights in the matter.

Mr. GOEBEL. As a purchaser I have.

Mr. BURKE of South Dakota. But you do not have to purchase.

Mr. BUTLER. No; that is the point. You do not have to purchase. You do not need to go there unless you choose to.

Mr. GOEBEL. That is true.

Mr. BUTLER. If you go there at all, you go there voluntarily.

Mr. GOEBEL. But the Government is opening up this reservation and inviting purchasers, and when it invites purchasers it ought to protect them.

Mr. BUTLER. That is the Government's own business—whether or not there shall be a restriction put upon the land.

Mr. GOEBEL. That is true.

Mr. BUTLER. I have a decided opinion upon the question of the sale of rum to the Indians.

Mr. GOEBEL. And so have I. Nevertheless, I do not see what that has to do with the question before us.

Mr. BARTHOLDT. Mr. Chairman, how much time have I remaining?

The CHAIRMAN. The gentleman has nineteen minutes.

Mr. BARTHOLDT. Mr. Chairman, it is perfectly evident that section 10 of this bill, even if it be modified as suggested by the chairman of the Committee on Indian Affairs, would be unconstitutional, in accordance with the decision cited by the gentleman

from Ohio [Mr. Goebel], a decision of the Supreme Court of the United States.

Mr. PARSONS. The gentleman from Ohio simply stated that this provision was a valid one if we cared to impose it.

Mr. GOEBEL. The gentleman certainly misunderstood me very greatly.

Mr. BARTHOLDT. He could not state anything else if he based his argument on that decision, which simply says in plain words that as soon as an Indian becomes a citizen of the United States he becomes subject to the laws of the State where he resides, and is free from the police power of the Congress of the United States; that is all.

Mr. PARSONS. Yes; but he did admit that you could attach this condition to the land, and the reason for attaching it is just because that is the only way in which we can do our part.

Mr. BARTHOLDT. I do not admit that, and it would be unconstitutional if you did attach it, according to that decision.

Mr. PARSONS. He admitted that you could do it.

Mr. BUTLER. I will state to my friend that whether we can do it or not, we will do it.

Mr. BARTHOLDT. I will be glad to yield to the gentleman at the proper time, but right now I want to say just a word about the practical operation of the provision as it has existed in previous laws. A case was called to my attention some years ago of a citizen of Missouri, a resident of my district in the city of St. Louis, who was on the way to the Pacific coast. The railroad crossed an Indian reservation in the State of Nevada. On that Indian reservation the train stopped for refreshments. As the gentleman stepped off the platform of the train he was approached by an Indian who showed every sign of suffering, and the Indian

asked him whether he could not have a drink out of his flask. My constituent did not have a flask with him, but he returned to his car and borrowed a flask from one of this fellow-passenger, and, moved by pity and sympathy, he handed the flask to the suffering Indian. The Indian took it and used it and handed it back, and just at that moment a United States marshal stepped up and arrested the gentleman for giving liquor to an Indian. The result was that this man, who happened to be unaware of the laws against such a practice, was tried and convicted and sent to the penitentiary for two years, and the United States marshal, who, as was discovered afterwards, had induced that Indian to feign sickness and ask for the liquor, lined his pockets with the fees that resulted from the fine in that case.

I merely call attention to this one incident, which came to my notice through his friends trying to procure a pardon for the man, who had thus innocently and through his compassion violated the laws of the land, as an example of the practices under the provision which we are now discussing.

Mr. PAYNE. Will the gentleman yield?

Mr. BARTHOLDT. Yes.

Mr. PAYNE. Does not the gentleman know that it is impossible for that case to be duplicated now, since we have abolished the fees of marshals and pay them a salary?

Mr. BARTHOLDT. I am very glad of the change, but I am quite certain that even the new system is subject to abuses of this kind.

Mr. KAHN. Does the gentleman think the marshal divided his fees with the Indian?

Mr. BARTHOLDT. I do not know. The evidence does not show.

Mr. SABATH. As a rule marshals do not divide with anyone if they can help themselves.

Mr. BARTHOLDT. Mr. Chairman, the contention of the gentleman from Ohio is that in accordance with the decision of the Supreme Court cited by him, and this seems to be the only decision on record on this subject, the Indian becomes independent of police control exercised by Congress and becomes subject to the laws of the State immediately upon his acquiring the rights of a citizen, and therefore, while these provisions may have been proper and right in the past, after the Supreme Court has spoken on this subject it seems to me this House ought to be guided by that high authority. While I am in full accord with the opinion of the gentleman from Pennsylvania [Mr. Butler] to the extent that the Indian ought to be protected as long as he is a ward of the Government, I am just as fully determined to give him his rights as a citizen when he becomes a citizen, and free him from the bondage which has existed heretofore, and I think that we can trust our state governments to the extent of taking care of him when he becomes amenable to their laws as much as we can trust the Government of the United States in that respect.

I reserve the balance of my time.

Mr. BURKE of South Dakota. Mr. Chairman, I yield three minutes to the gentleman from Pennsylvania [Mr. Butler].

Mr. BUTLER. Mr. Chairman, I do not believe in naturalizing the Indian for the purpose of making him a receptacle for rum. I think that only the moral feature enters into this discussion. The question is, Shall there be imposed upon this land a condition which the Government has a right to impose—and I desire to say that it is not a very great burden to have imposed upon

the land under present circumstances—which creates an absolute prohibition against the sale of liquor thereon? I own a piece of property in the State of New Jersey, at Longport, a little way below Atlantic City, and on mine, as well as upon every property in the village, there is imposed a restriction that no liquor shall be sold on the premises. I have no feeling against the sale of liquor under proper limitations and in proper places, but I do have a most decided conviction upon the propriety of selling it to Indians and a decided protest to make against any man who will try in any way to furnish liquor to these people.

Mr. BARTHOLDT. Will the gentleman permit a question?

Mr. BUTLER. With pleasure.

Mr. BARTHOLDT. Would the gentleman be willing at all to set any limit to the bondage in which the Indian is kept? Does he not concede that it is best for an Indian to acquire a sufficient degree of civilization to control himself eventually in matters of habit and custom?

Mr. BUTLER. That might be; but I do not propose to change my view, and I shall not entertain at all the suggestion of my friend from Missouri. [Laughter.] My judgment is made up and is the result of a conviction of a lifetime.

The Indian should not be tempted, if it is possible to keep the tempter away from him. Rum should not be sold to him, and no one should be permitted or encouraged to make the sale to him. I can see no reason why the Government should not impose this condition upon this land.

Mr. MURPHY. Then we ought to make this just as strong as possible, ought we not?

Mr. BUTLER. Yes, sir. Make it as strong as possible. You cannot make it too strong for me. Mr. Chairman, this land, as I understand, is within the boundaries of an Indian reservation. Is that right?

Mr. BURKE of South Dakota. Yes, sir.

Mr. BUTLER. It is proposed now to make a sale of it to somebody of some color, white or black, it does not matter. This being so, the Government has the right to impose at this time upon these titles this condition.

Mr. BARTHOLDT. But if the lands are allotted it is no longer an Indian reservation.

Mr. BUTLER. If the lands are allotted it will be no longer an Indian reservation. It is where, as I understand, the Indian has always lived and where he is going to live, and I believe in keeping the sale of liquor out of his neighborhood, and for that purpose I propose in a kind and gentle way to suggest to gentlemen that if there is to be any attempt made to prevent the restraint being imposed upon this title they had better have a quorum of the House present to insure the success of the attempt.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BURKE of South Dakota. Mr. Chairman, if there is no further debate, I would like to have the bill read.

The CHAIRMAN. The amendment will be reported in lieu of the original bill, but will be reported under the five-minute rule for amendment.

The Clerk proceeded with the reading of the bill.

Mr. BURKE of South Dakota. Mr. Chairman, I ask unanimous consent that the bill which is just about to be read be amended as it was amended by the Committee on Indian Affairs that reported the House bill to the House.

Mr. BUTLER. Mr. Chairman, reserving the right to object—

Mr. BURKE of South Dakota. That the bill which the Clerk is now about to read is not the bill that was reported by the committee, the committee recommending that the Senate bill be amended by striking out all after the enacting clause and inserting in lieu thereof the bill H. R. 12437. By some inadvertence the bill that was used was the original House bill before it was amended in committee, and there are a few slight amendments.

The most important one in it is the substitution of this section 10 by the section as it appears in the bill. The others are slight amendments.

Mr. BUTLER (continuing). Reserving the right to object, Mr. Chairman, I would like to inquire of the gentleman from South Dakota if the amendment which he suggests is made—and I am willing to take his statement and vouch for the truthfulness of it—will it prohibit the sale of liquor within the present reservation for the next twenty-five years?

Mr. BURKE of South Dakota. It will, just as far as it will be possible to prohibit by law, and I think it a better provision than the other, because it has been passed upon by the courts and been sustained. There is no question about it.

Mr. BUTLER. That satisfies me.

The CHAIRMAN. The Chair suggests to the gentleman from South Dakota [Mr. Burke] that, in the opinion of the Chair, the better parliamentary practice, before the gentleman from South Dakota asks the reading of the first section of the bill, would be to offer that entire bill as a substitute, giving notice that he will strike out the other sections as they are reached.

Mr. BURKE of South Dakota. I think, Mr. Chairman, as the sections are read I will offer these amendments. They are very slight.

The CHAIRMAN. Very well. The request is withdrawn. The Clerk will read.

The Clerk read as follows:

Sec. 2. That the lands shall be disposed of under the general provisions of the homestead and town-site laws of the United States, and shall be opened to settlement and entry by proclamation of the President, which proclamation shall prescribe the manner in which the lands may be settled upon, occupied, and entered by persons entitled to make entry thereof, and no person shall be permitted to settle upon, occupy, or enter any of said lands except as prescribed in such proclamation: *Provided*, That prior to said proclamation the allotments within the portion of the said Pine Ridge Reservation to be disposed of as prescribed herein shall have been completed: *Provided further*, That the rights of honorably discharged Union soldiers and sailors of the late civil and Spanish wars or Phillippine insurrection, as defined and described in sections 2304 and 2305 of the Revised Statutes, as amended by the act of March 1, 1901, shall not be abridged.

Mr. BURKE of South Dakota and Mr. SABATH arose.

The CHAIRMAN. The gentleman from South Dakota, chairman of the committee, is recognized.

Mr. BURKE of South Dakota. I desire to offer an amendment. On line 12, page 12 of the bill, after the word "said," I move to strike out the words "Pine Ridge" and insert in lieu thereof the word "Rosebud."

The CHAIRMAN. The gentleman from South Dakota offers an amendment, which the Clerk will report.

The Clerk read as follows:

Page 12, line 12, strike out "Pine Ridge" and insert "Rosebud."

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken, and the amendment was agreed to.

Mr. SABATH. Mr. Chairman, I desire to offer an amendment.

The CHAIRMAN. The gentleman from Illinois offers an amendment, which the Clerk will report.

The Clerk read as follows:

Page 12, line 7, after the word "prescribe," insert "that all applications for registration must show the applicant's name, post-office address, age, height, and weight, and be sworn to by them before any county or district judge where such applicant resides, and other."

Mr. SABATH. This amendment will fit right in that provision.

Mr. MANN. Not in that place.

Mr. SABATH. Read that entire section with that amendment down to that point and see whether it will.

The Clerk read as follows:

That the lands shall be disposed of under the general provisions of the homestead and town-site laws of the United States, and shall be opened to settlement and entry by proclamation of the President, which proclamation shall prescribe that all applications for registration must show the applicant's name, post-office address, age, height, and weight, and be sworn to by them before any county or district judge where such applicant resides, and other, and the manner in which the

land may be settled upon, occupied, and entered by persons entitled to make entry thereof.

Mr. SABATH. Is there any objection to this amendment?

Mr. BURKE of South Dakota. Why, certainly there is objection to it.

Mr. SABATH. Why, then, I desire to be heard on the amendment.

Now, Mr. Chairman, the last proclamation of the President had the following provision:

All applicants for registration on the lands must show the applicant's name, post-office address, age, height, weight, and be sworn to, either at Aberdeen, etc., or be sworn before some notary public designated by the superintendent.

That necessitated each and every applicant to go in person to the place designated in the President's proclamation to register, which is in close proximity to the lands to be opened. I am informed that over 30,000 people were obliged to travel hundreds, yes, thousands, of miles to register in accordance with the proclamation, which meant an aggregate expense of over \$4,000,000, or nearly as much expense as the lands were worth. Now, I propose by this amendment to give a person who has not enough money to go there in person to register a chance and an opportunity to register in the county where he resides. I think it is a just amendment, and should be adopted.

I do not know why we should exclude the poor man, whom we desire to take care of, by forcing on him a provision that makes it obligatory upon him to travel thousands of miles to register. Under my amendment you will observe that there can be no fraud perpetrated. Each and every applicant must appear in that section of

the country where he resides before the county judge or the circuit judge, who, as a rule, are more likely to know these applicants than strange and favorite notaries. They will be sworn to, the same as they would be before the notaries that are to be designated by the superintendent. I honestly believe it will aid materially in giving an opportunity to all deserving and well-meaning people who are trying to secure a homestead for themselves. For that reason I believe that it would be no more than right that these people should have an opportunity, and I hope that this amendment will prevail. [Loud applause.]

Mr. GRONNA. Will the gentleman allow me to ask him a question?

The CHAIRMAN. The time of the gentleman has expired.

Mr. SABATH. Mr. Chairman, I ask unanimous consent that I may be permitted to proceed for five minutes.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none.

Mr. SABATH. It is just for the purpose of answering the gentleman's question.

Mr. GRONNA. Does the gentleman believe that any homestead settler, if he wanted to make his selection for a home, is willing to file on land unless he has personally seen it?

Mr. SABATH. But it does not follow that he will draw a piece of the land. He first registers, as I understand.

Mr. STAFFORD. Can not the persons who are living at a distance from the reservation proposed to be opened ascertain from the department a general idea as to the character of the soil, and in that way determine whether it is suitable for their purposes or not?

Mr. SABATH. Yes; they can.

Mr. STAFFORD. I would like to ask the gentleman if it is not the purpose of the proposed amendment not to give the advantage to those living in the immediate vicinity of the reservation, but to give people from all over the country an equal chance without the imposition of an unnecessary and expensive railroad trip?

Mr. SABATH. That is the purpose, and I believe, and am of the opinion and belief, that those who reside 500 miles away from the reservation, or a thousand miles, are as good citizens as those who reside near such lands. Furthermore, I believe that we should not legislate in the interests of the railroads and to the detriment of the public. The railroads derive the greatest benefit out of the procedure and out of the system that has been pursued in our opening of these reservations.

Mr. GRONNA. Now, will the gentleman permit me?

Mr. SABATH. I will as soon as I have finished. I am informed that over 30,000 people went either to Aberdeen, Le Beau, Lemmon, Mobridge, or Pierre, S. Dak., or to Bismarck, N. Dak., which were the places designated for registration of the unallotted, unreserved lands within the Cheyenne River and Standing Rock Indian reservations, in the States of North Dakota and South Dakota. All of these people lost a great deal of valuable time, spent a lot of money for railroad fare, were held up in "temporary hotels," paid seven prices for something to eat, and endured great hardship. I have personal knowledge of over 30 cases wherein honest and well-meaning residents in my district traveled great distances to reach these places, who incurred expenses from \$125 to \$150, and these people have informed me after their return from the places where they were obliged to go in order to register of the hardships and inconveniences which they were

obliged to endure and contend with. They told me of the many "sharpers," "fake promoters," and "bunko steerers" against whom they were obliged to constantly guard, and were it not for the fact that they were intelligent and honest men, they might have fallen victims to the many "schemes" which were devised by unscrupulous fakirs and gamblers to relieve the home seekers of their money. Promises were made to them that if they would pay from \$50 to \$100 apiece they would be successful in the drawings. How many thousands of honest home seekers like these men were have fallen victims to such cheap and lowly adventurous "grafters" no one can tell. By the adoption of my amendment every person will have a fair and honest chance to register without incurring any loss of time or paying railroad fares, even at excursion rates, to such places. These excursions to the places of registration have been a source of great revenue to the railroads, and I do not propose to legislate for their particular benefit.

All of the hardships endured and expenses incurred by these home seekers were for what purpose? Just for the purpose of registering. The drawing does not take place at the same time. So why can not they register in the locality, in the county, or in the district where they reside? And if they are fortunate enough to draw or to win an allotment of a homestead, then they have plenty of time to go down there and make a proper selection.

Now I yield to the gentleman from North Dakota.

Mr. GRONNA. I simply want to say, in reply to the gentleman from Wisconsin, that the parties who live nearest by have their own lands, and they can not take any more.

Mr. STAFFORD. But the gentleman knows that they have children growing up that are entitled to lands in

these reservations, and that they will have superior knowledge as to the character of the lands and will be able to settle on the lands much easier than those who have to go to a large expense when living at a distance from the reservation.

Mr. GRONNA. Not at all, let me say to the gentleman. I believe that unless these people go and see the land that much of it will not be taken up at all, especially because of the high price that they are to be sold at.

Mr. SABATH. The gentleman need not be alarmed. I assure him that it is not necessary to go down there. There will be plenty of applicants, and if there is any land left after the drawing takes place, I will give him my word that I shall supply him with applicants for the entire tracts that may remain unallotted or unsettled, and they will all be excellent people, who will make splendid farmers and develop these lands to such an extent that the good people in his own district will be benefited, and especially so if they come from my district in Chicago.

Mr. GRONNA. I am very glad to know that.

Mr. SABATH. Yes; they will all be mighty good settlers, good farmers, and agreeable neighbors.

Mr. CARTER. Can the gentleman give any definite information as to the time that may elapse between the registration and the entry on these lands?

Mr. SABATH. It depends upon the proclamation of the President. As a rule it takes two or three months, and sometimes four months.

Mr. CARTER. I think from one to two months, or something like that.

Mr. SABATH. It may be as short a time as that.

Mr. CARTER. It necessitates two trips to the land, does it not?

Mr. SABATH. Yes; it always does.

Mr. MANN. Two trips to the land for those that are lucky enough to get any land and one trip to 99 per cent of the people who go and do not get any land.

Mr. SABATH. That is correct.

Mr. MANN. It is a safer game to play the tiger in Chicago and lose than to take a chance in this government lottery.

Mr. SABATH. We have no "tiger," but some "wolves," as I understand, in Chicago.

Mr. MANN. Not under a Republican administration.

Mr. BURKE of South Dakota. I desire to be heard on this admendment, but I think the gentleman from Wisconsin [Mr. Morse] desires to oppose it.

The CHAIRMAN. Is the gentleman in favor of this amendment?

Mr. MORSE. I am in favor of what is attempted to be done by the amendment.

The CHAIRMAN. The Chair will recognize the gentleman from Wisconsin.

Mr. MORSE. Mr. Chairman, I am of the opinion that most of these bills for opening homestead land should be entitled "A bill for the encouragement of the sale of railroad tickets." [Laughter.] I am very much in favor of what is attempted to be done by the amendment of the gentleman from Illinois [Mr. Sabath]. The fact of the business is that the Government conducts an immense lottery, and that 99 per cent of the people pay good money and draw blanks. It costs \$50, \$60, or \$70 each, and it has been estimated as high as \$100 each, for people to go out where these openings are held, because many of them come from away east of Chicago and take chances on getting land. Now, the land hunger is very strong in the average human breast, and the mere fact that 100,000 people will go clear

across the continent to take a chance, when they know there will not be to exceed 1,000 homesteads opened, indicates the desire to get them. I believe that there should be a way provided whereby every man who desires to take a chance could go before his county clerk, or some officer in the county, and pay a small fee, enough to pay the expense of conducting the operation, and then, having registered, have his name put into the hat the same as the lottery is now conducted.

If that is done, I believe you will get better homesteaders. You will get people who are desirous of living on the land, and not people who are out on a pleasure trip, who stop off there and register just for the fun that there is in it. Therefore I am heartily in favor of the proposition of the gentleman from Illinois [Mr. Sabath]. The proportion of the amount of land drawn to the money paid in railroad fares, hotel bills, and expenses of the trip is getting to be almost a national scandal, and I am certain that at this time this committee should adopt a resolution or an amendment to this bill which will give the men in New Jersey and the men in New York the same chance as the men who live in North Dakota or in California. [Applause.]

Mr. BURKE of South Dakota. I may say that I anticipated there would be some opposition to this provision to which the gentleman from Illinois [Mr. Sabath] has offered an amendment, and I am not surprised that it appeals to some Members. But, Mr. Chairman, it would be so impracticable as to be absolutely impossible to administer the law if this amendment should be adopted.

To begin with, it reverses the policy of the Government from the time the public lands were disposed of to settlers under any of the laws governing settlers upon

the public domain. At no time in the history of the country has there been any law that permitted a man to make an entry upon the public domain without going into the jurisdiction of the State or Territory where the land is located, barring a survivor of the civil war. A soldier of the civil war was permitted, through power of attorney, to file a declaratory statement, which merely reserved the land for six months, and when he made his entry therefor he had to go into the State where the land was located or the Territory in which it was located.

Mr. STEPHENS of Texas. Is it not a fact that you can make a mineral entry under the mining laws of the United States by giving a friend of yours in the mining country a power of attorney to act for you?

Mr. BURKE of South Dakota. That may be true as to mineral entries, but there is no settlement required upon a tract of land under the mineral laws.

Mr. STEPHENS of Texas. But the gentleman will admit that you must do \$100 worth of work within ninety days and comply with the local regulations of that State or district.

Mr. BURKE of South Dakota. Now, Mr. Chairman, the practice up to a few years ago when lands were to be offered for sale was to open them up to settlement under the homestead laws, and persons went out and took their chances in making selections, and finally there got to be such a demand (in Oklahoma 115,000 people went there to file) that it became necessary to devise some other means of disposing of the lands, so that it could be done in an orderly way, and therefore this system that has prevailed now for several years requiring registration was adopted, and the law, or the regulations, I may say, have been modified and changed until it is admitted by those who have had an

opportunity to see its workings that it comes about as near being perfect as is possible to have any system for this purpose.

Now, to say that any person anywhere in the United States—

Mr. SABATH. Any citizen.

Mr. BURKE of South Dakota. Any citizen in the United States may go before any officer who is empowered to administer an oath—

Mr. SABATH. I do not go that far.

Mr. BURKE of South Dakota. Well, the clerk of the court—I do not care who it is—and permit him to register, will simply mean that you will have such a number of applicants that it will be absolutely impossible to work it in a practical and orderly way.

Mr. SABATH. In what way will it be impossible to work it, will the gentleman state? Will it make any difference whether you have five or ten thousand more applicants?

Mr. BURKE of South Dakota. You will probably have as many million applicants.

Mr. SABATH. Oh!

Mr. BURKE of South Dakota. Because we have now as high as a hundred thousand.

Mr. SABATH. Well, I am willing to pay two or three more clerks \$5 or \$10 more to save the people of this country that many millions.

Mr. BURKE of South Dakota. Now, Mr. Chairman, there is no bounty about this. The Government is charged with the responsibility of selling this land for the benefit of the Indians, and it is due to the Indians that the Government do it in some orderly way. It is also desirable that we get a class of citizens that will at least take enough interest in the initiation of the claim to go where the land is.

If persons could register at any place in the United States at a cost of only 25 cents, the registration by impecunious and aimless adventurers would be almost innumerable. The requirement of this plan that the applicants visit specified registration points near the land is not a new departure in the administration of the public-land laws. Congress has heretofore thought it wise to require all persons who seek entry under either the homestead law, the preemption law, the timber-culture law, the desert-land law, or the timber and stone law to go to the land district in which the lands are located to make their filings. The wisdom of this provision is found in the fact that, if applications could be presented from any point in the country, very many aimless adventurers who could barely raise the price of a filing fee would make a filing to the detriment of the bona fide home seeker.

The advocates of a plan which would permit registration from all parts of the United States seem to proceed on the assumption that the Government owes a home as a bounty to every one of its citizens, and that therefore each of them has a right to present his application without going to the land, and at a cost which is no greater than the cost to other applicants who happen to reside in the vicinity of the land office. As I have remarked, the prime object of the opening of Indian lands is that distribution which will best advance the interest of the Indians, and not the giving of a bounty to the citizens of the entire country. These lands belong to the Indians and are being sold for their benefit. They do not belong to the Government and can not be distributed as bounty to its citizens. The Government acts only as an agent or trustee in the sale of the lands, and must dispose of them in the manner which will best advance the interest of the Indians. The

most desirable plan to accomplish this end is the one which tends greatest to limit the number of applicants to approximately the number of farms to be distributed and the discouragement of aimless adventurers and speculators, and the cost of a trip to a registration point gives the best available assurance of the good faith of the applicant. If this cost be eliminated, every aimless adventurer who desires to "try his luck" would register for 27 cents from his home; and the registration of every such person would increase the total registration and decrease the probability that the bona fide home seeker would obtain land.

Mr. MANN. Will the gentleman yield for a question?

Mr. BURKE of South Dakota. Yes.

Mr. MANN. Does the gentleman think the present system is entirely satisfactory?

Mr. BURKE of South Dakota. I will say, Mr. Chairman, having come in personal contact with a number of these registrations, I have yet to see any person who has found any fault with the system. On the contrary, they have said that it is a fair way to dispose of this land.

[By unanimous consent, the time of Mr. Burke of South Dakota having expired, it was extended for ten minutes.]

Mr. MANN. Then I may say to the gentleman, so that he may be in possession of information on the subject, that I have no doubt that more than 100 people went from my district to each one of these Indian reservation openings, and I have no doubt that not more than 1 per cent received allotments, and I have further no doubt that the other 99 per cent were disappointed, and I know that some of them have considered it a confidence scheme, and have repeatedly said that it was a shame for the Government to ask

them to go out there and spend their money for railroad fare and living expenses for the purpose of being turned down in the end, when nothing was accomplished by it.

Mr. BURKE of South Dakota. Before this system was adopted they went and took their chance in a different way, and then it was a question of the strong over the weak, or, in the final analysis, the man who was willing to commit perjury.

Mr. MANN. I will agree with the gentleman that the present system is vastly superior to the old system of brute force and speed; but is that any reason why we might not try the experiment of opening these lands without requiring thousands of people to waste their time and their money going out onto the lands?

Mr. BURKE of South Dakota. But the gentleman certainly appreciates that this must be done in some orderly way; and does the gentleman believe that if you threw it open to registration to any person anywhere in the United States who might file for 25 cents that it could be managed in a way that you could control it?

Mr. MANN. I think we might try that experiment and find out. We know that the present system is unfair to the people who go out there and who get nothing by it. I know many people who have gone to several different openings in the vain expectation that they might obtain a homestead, and they have spent their money, squandered their time, and have come home with bitter feelings toward the Government that invited them to come and gave them nothing in return except a gambling chance, and not a fair gambler's chance even.

Mr. BURKE of South Dakota. Is not the gentleman aware that the Government has not asked them to come, and has never printed a line of advertising yet in connection with one of these openings?

Mr. SABATH. The gentleman is mistaken.

Mr. BURKE of South Dakota. I am not saying what railroads may do or what individuals may do.

Mr. MANN. I am aware of this fact that the Government, by the passage of this bill, does invite them to come, and permits the railroads to advertise and to lie in their advertisements, under permission directly of the Indian Office, to the people of the country. The gentleman knows that. He has seen these advertisements, as I have seen them.

Mr. BURKE of South Dakota. I have not seen any lying advertisements up in our country.

Mr. MANN. I have seen advertisements about the Rosebud Indian Reservation opening in the gentleman's own State, advertisements printed by the Milwaukee and St. Paul Railroad Company and the Chicago and Northwestern Railroad Company, with the statement that the information furnished came from the Indian Office, when I knew the statements were not true, wherever they came from, and there was no pretense on the part of the Government that it denied any such statement as that.

Mr. BURKE of South Dakota. The Government has always had regulations and information in printed form that it has sent to any person who might write and ask for it.

Mr. MANN. I understand.

Mr. BURKE of South Dakota. Let me say to the gentleman that it has required in a number of these openings, in order to get the conditions adjusted so that they could be operated orderly, the confining of it to a few places in the vicinity of the land. It was found that in order to have it safeguarded and to prevent persons from duplicating, to prevent persons from perhaps registering under fictitious names, that the notaries that

are authorized to administer oaths to these people are only permitted to operate after they have received the authority from the man in charge of the registration.

Mr. MANN. I understand.

Mr. BURKE of South Dakota. And they endeavor, as nearly as possible, to have registrations at the point where the local land office is located, in order that it may come under the supervision and direction of the local registrar and receiver. Now, if you have an opening such as this amendment proposes, does anybody think for a minute that there will not be somebody to do some advertising in connection with this proposition, and there may be misleading advertisements all over the country, from Maine to California and down to Florida, and there will be millions of these applications sent into the department without any way of authenticating them or determining them?

Mr. MANN. Why will so many people send in their applications?

Mr. BURKE of South Dakota. Why, because it appeals to them like a lottery.

Mr. MANN. Because it is such a good thing. If it is a good thing, let everybody have a fair chance at it.

Mr. BURKE of South Dakota. Does not the gentleman from Illinois believe that a man who has any honest intention of going upon what is equivalent to the public domain and acquiring a homestead ought to take sufficient interest in it to go out and look it over before registering?

Mr. MANN. Why, certainly not. Why should he, if he wanted to take a homestead out there, not know the land well enough in order to get a homestead? I have faith enough in the gentleman from South Dakota to know that he would not throw it open for homestead purposes unless people could live on it as homesteaders.

I think that is a fair presumption all over the United States. The people have that confidence in Congress.

Mr. BURKE of South Dakota. The trouble with the gentleman's amendment is that it is very nice in theory, but would be impracticable.

Mr. MANN. Let us try it once.

Mr. BURKE of South Dakota. The department has authority now to open these lands under rules and regulations. If the gentleman can improve on the present system, I would be glad if he would take it up.

Mr. SABATH. No doubt the number of applicants for registration will reach anywhere from 40,000 to 50,000, and it may possibly exceed the latter figure; therefore do you not believe that my amendment, which will effectuate a saving from \$100 to \$200 to each and every home seeker who will try to register for these lands, will prove beneficial?

Mr. BURKE of South Dakota. The gentleman is laboring under a misapprehension.

Mr. SABATH. No; I am not.

Mr. BURKE of South Dakota. He has an idea that there is a lottery in which something can be had for nothing. That is not the condition. The man must first have qualifications as a homesteader to begin with. He must go upon the land and live upon it as his bona fide residence. He must do that for fourteen months, and he must pay the price that has been fixed upon the land by the appraisers, as this bill provides.

Mr. SABATH. And the people in whose interests I have been speaking are willing to do it. They are willing to pay for the land and comply with all the laws, rules, and regulations, but they are not willing to risk \$150 or \$200 extra without knowing whether they will have a possible chance, chances being more than 100 to 1 against them.

Mr. HINSHAW. Will the gentleman allow me?

Mr. BURKE of South Dakota. I yield to the gentleman.

Mr. HINSHAW. How many of the 40,000 people you speak of who go there and register actually intend to be bona fide settlers upon the land?

Mr. SABATH. I am speaking of these 40,000 who traveled to the last opening. Every one went there with that intention, otherwise he would not have spent from \$100 to \$150 and lose time and endure hardships to go down there if he did not intend to become a bona fide settler.

Mr. HINSHAW. I do not believe that the fact that they went there and registered and paid 50 cents that it was ever their intention to become bona fide settlers.

Mr. SABATH. Is the gentleman of the impression that these people went there for a pleasure trip?

Mr. BURKE of South Dakota. In view of the registration we had, where there were several hundred in the last drawing that did not file, and when they came down to 1,000, a larger proportion, and so on, the further you went down the list, there was not more than 1 in 10.

Mr. HINSHAW. If there was a general registration open to the whole country 90 or 95 per cent would not be bona fide homesteaders.

[Here the hammer fell.]

Mr. BURKE of South Dakota. I ask unanimous consent to proceed for five minutes.

The CHAIRMAN. Is there objection?

Mr. HAYES. I call for the regular order, Mr. Chairman.

The CHAIRMAN. Objection is heard.

Mr. FERRIS. I move to strike out the last word.

The CHAIRMAN. That motion is not in order.

Mr. FERRIS. I desire to be recognized in opposition to the amendment.

Mr. HAYES. I raise the point of order that there has been all the debate that the rules allow.

The CHAIRMAN. The point of order is well taken; debate is exhausted.

Mr. FERRIS. I ask unanimous consent that I may address the committee for five minutes.

Mr. HAYES. I object.

Mr. FERRIS. I hope the gentleman will not object.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none. The gentleman from Oklahoma is recognized for five minutes.

Mr. FERRIS. Mr. Chairman, I desire to make a few observations on this amendment from a practical standpoint. I myself have gone through the details of an opening under this lottery or bidding plan. It is a very admirable plan of opening a new country, and it only needs the amendment of the gentleman from Illinois to make it absolutely perfect.

I again repeat, it only needs the amendment of the gentleman from Illinois [Mr. Sabath] to make it absolutely perfect. In the portion of Oklahoma where I now live there were 13,500 claims to be sold in this way, claims of 160 acres each. For those 13,500 claims there were applications approximating 280,000 people, including myself. Each of us had to pay railroad fare and be robbed by the crowded hotels and local notaries public, who sat there like a lot of vultures to take our money when we came to bid on the land, and all of us except 13,500 had to return without any land and without our money. It was wrong in principle and wrong in fact to force us all to go in person to register and undergo the hardships when the registration could as well be done at home.

The chairman of the Committee on Indian Affairs should not oppose this amendment, in deference to proper legislation. It is fair. It is just. It will give everyone a chance. It will relieve congestion, needless expense. It will give the poor people a chance as well as the speculators.

The scheme of opening lands by a drawing is an admirable one. The gentleman suggests that this will be a cumbersome proposition, from the fact that so many will be induced to apply. I want to state that it will not be cumbersome, and I can offer a reason for this conclusion. No matter how many apply, the first 13,500 whose names are drawn from the box, or out of a great wheel, as they used in my country, will have the right to make selections; the others of course get no land. They had a great hollow wheel in the Oklahoma opening, and they turned it around each time a name was drawn, and a boy who was blindfolded drew out one name, and that entitled the holder or name drawn out to go and select a piece of the land that was on sale. You do not register for a specific tract, but you register for a chance to go and select a specific tract. In other words, if my name is drawn out of the box first, I have an opportunity to go onto the reservation and select the best tract in the reservation or first choice. In other words, I would have the first chance of all the tracts that are offered for sale, and No. 2 has the second chance, and No. 3 the third chance, and so on. Now, the proposition that it will make it too cumbersome falls to the ground, because those people throughout the country who do not receive anything are not out anything. The first 13,500, if that be the number of claims to be sold, will get claims. What do they do? They get on the train and go out there and go before the land office and file on their claims. Then only the

man who gets land has spent any money, and only the man who gets land is out any money. Those who do not get any land are only out 25 or 50 cents for the fee paid to the notary or the clerk of the court of record before whom the acknowledgment is taken.

Mr. MADDEN. Will the gentleman yield for a question?

Mr. FERRIS. Certainly.

Mr. MADDEN. Suppose 200,000 people made application. Suppose that 150,000 of them did not appear at the drawing.

Mr. MANN. Nobody appears.

Mr. FERRIS. There would not any of them appear at the drawing.

Mr. MADDEN. Some would.

Mr. FERRIS. They would not need to.

Mr. MADDEN. Suppose the other 150,000 did appear. Suppose the first man whose name was drawn was one of the 150,000. Suppose a man whose name was drawn last was one of the 50,000 who did appear. What opportunity would the man whose name was first drawn, but who did not appear, have to make the first selection if he was not on the ground?

Mr. FERRIS. I am very glad the gentleman asked that question, because that enables me to clear up the situation. There is always a lapse of time, two or three months, before they can make an entry, and then there is notice sent out from the local land office which says, "On the first day of the filing we can take care of the first 125 applicants, numbers from 1 to 125," inclusive, fixing a positive date. So the man living in Maine who drew a number has ample time to get to Dakota to file, and the man living in California has ample time to get to Dakota and file on his land in the order in which their respective numbers entitle them.

The CHAIRMAN. The time of the gentleman has expired.

Mr. FERRIS. I should live five minutes more.

Mr. MARTIN of South Dakota. I move to strike out the last word.

The CHAIRMAN. The Chair will state that the motion to strike out the last word is not in order, since it would be an amendment in the third degree.

Mr. FERRIS. I ask unanimous consent to proceed for five minutes.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. MADDEN. Then, the man whose name is first drawn, under your plan of operation, is not required to go immediately after the drawing of his name to make a selection of his land?

Mr. FERRIS. That never has been the case, either in Dakota or Oklahoma. There can be no reason to assume that they would change that feature in this opening.

Now, one word more. It was suggested by the chairman of the committee that if we do not make the person appear and register his application, certain frauds will attend the opening.

That observation is not a correct one. Why? Because the applicants that came to the registration did not in former openings appear before any government officer or board, but merely appeared before a notary public, who was not always what he should be. They sat there with blanks written out, and charged whatever they could get from the unsuspecting home seekers; in some cases 25 cents and other \$1.25. They made enormous wages. Only a few had commissions, and they had a monopoly on the business.

Mr. BURKE of South Dakota. Mr. Chairman, the gentleman surely does not mean to leave the impression

with the House that such conditions prevail under the present practice?

Mr. FERRIS. Mr. Chairamn, I do not know that I have anything to recall. They sat there—forty or fifty of them—and hundreds of men appeared daily before them, and they were charged, as above specified, all kinds of prices. It was nothing more nor less than a hold-up scheme, and the home seekers ought not to have to submit to it.

Mr. BURKE of South Dakota. But no notary public is permitted now to charge more than 25 cents.

Mr. SABATH. The superintendent appoints the notaries, and did under the last proclamation.

Mr. BURKE of South Dakota. I will say to the gentleman that if the amendment of the gentleman from Illinois is to prevail, people all over this country will be defrauded.

Mr. FERRIS. Mr. Chairman, if the gentleman will permit me a word further, I think I can make it clear that that will not be the case. In the county where an applicant lives, the court of record knows him best, knows his qualifications best, and should make out the application for registration. Another thing is that in the county where the applicant lives every applicant can go to the clerk of the court and he can get identification that he is the one actually applying for this land; hence no chance for duplication of registration, no chance for dummies, no chance for fraud or error. The judge of the court or the clerk of the court of record is much more competent and a much more proper one to pass on these matters than a few men who sit around at one of these openings and get their notarial commissions—I do not know how. Many men in our Oklahoma openings got notarial commissions in some way who were not entitled to them, and under ordinary conditions could not get them.

The right way to do is to let each man apply where he is known, where he can get identification, and go before the clerk of the court or the judge of the court and have his application made out in the usual way. He can then go down and drop it into the post-office and mail it to the board that is conducting the opening, and he will then have it put into this Pandora's box, or large wheel, as it was in our case, and it will be placed in an envelope, and they will then have the drawing, and the man who is fortunate enough to get the land will have an opportunity to get on the train, go and examine the land, and later enter the land. In that case no wrong is done anyone, and the plan, which is an admirable one, will be perfected. The plan is good in every respect, and the gentleman's amendment ought to be adopted.

Mr. CARTER. Mr. Chairman, in order that the record may show just what was done in the gentleman's country, I ask that he state how many people registered and how many people drew land.

Mr. BURKE of South Dakota. And when the opening took place.

Mr. FERRIS. The opening took place in August—no, the registration was in June—and the filing began the 6th of August, 1901, nine years ago, and in response to my colleague, Mr. Carter, I will state that there were 13,500 claims entered, of 160 acres each, and there were applications approximating 280,000. It was no trouble to sort out the first 13,500 applications. They just turned a huge wheel and had a boy, who was blindfolded, pick out an envelope, and the first envelope was that of Mr. James R. Wood, of Oklahoma, and the next one was Mattie H. Beal, of Wichita, and so on down the line, and their claims are worth to-day \$75,000 apiece. There was no confusion at all about

the drawing or the filing. The only trouble about this plan of opening and sale of public lands is the cumbersome registration feature. The proposed amendment will perfect that. I so much hope it may be adopted. I hope the chairman will not oppose it himself.

Mr. MARTIN of South Dakota. Mr. Chairman, I desire to be recognized in opposition to the amendment.

The CHAIRMAN. The Chair will state that debate is exhausted upon the amendment.

Mr. MARTIN of South Dakota. I ask unanimous consent that I may be permitted to proceed for five minutes.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. MARTIN of South Dakota. Mr. Chairman, I believe that this amendment ought not to pass. The conditions that the gentleman from Oklahoma [Mr. Ferris] has been describing was in 1901, nine years ago.

Mr. SABATH. Will the gentleman pardon me?

Mr. MARTIN of South Dakota. Certainly.

Mr. SABATH. Those conditions prevailed last year.

Mr. MARTIN of South Dakota. Not at all; not such as described by the gentleman.

Mr. SABATH. Not the same conditions, but like conditions.

Mr. MARTIN of South Dakota. In no way similar. I may say that the experience in Oklahoma placed upon the land department the important task of providing the simplest possible way to accomplish these openings, and the system there described has been very vastly improved upon. Every notary is under the strictest regulation and supervision. This bill does not prescribe the manner in which these openings shall take place. It

leaves the whole subject to the Commissioner of the General Land Office, and he may arrive at the very best possible way to accomplish what is sought to be accomplished, to wit, not to permit the operation of speculators, but to get actual home seekers in a way that will be the simplest and the best way for them to acquire an opportunity to get one of these homesteads.

Mr. STAFFORD. Will the gentleman permit?

Mr. MARTIN of South Dakota. Certainly.

Mr. STAFFORD. Does not the existing system give a preference to the persons living in the immediate vicinity or in the State where the reservation is opened?

Mr. MARTIN of South Dakota. No preference is given to anyone. All persons who go to registration points are treated exactly alike. The Commissioner of the General Land Office will no doubt make the best possible system he can, but the plan heretofore followed requires people to register at certain points, and he may make as many of those points in the United States as he sees fit. There is no limitation in this bill as to where those points may be.

What I desire to say in opposition to the gentleman's amendment is this: The purpose of his amendment, although I doubt very much whether the language would accomplish it—

Mr. SABATH. I think it will.

Mr. MARTIN of South Dakota. But the purpose of this amendment is to open to everybody, without any specification or qualification of citizenship, or anything else—

Mr. SABATH. Oh, no.

Mr. MARTIN of South Dakota. I so read it. The difficulty with this is that it is precisely in the wrong direction.

Mr. SABATH. No; it is in the right direction.

Mr. MARTIN of South Dakota. Let us see. The difficulty with the gentleman's proposition is that it is in the wrong direction. The trouble with the present system is that it brings too many people into the drawing. If there is any way you can limit the drawing simply to the people who are actually seeking homes that ought to be adopted. The one here proposed opens it to everybody, to speculators, who have no view of doing anything else than simply making a registration to speculate upon, which they can do by spending 25 cents for an affidavit, whereas now we have, perhaps, thousands who take sufficient interest and have sufficient serious intention of taking a home to go out and register, we open it to millions, so that the opportunity of the real home builder of really getting a chance to have a home is thereby curtailed that much more. There are too many men who file now who have no serious intention of taking a homestead. You remove all barriers and there will be hundreds of thousands simply standing in the way of the honest home builder who is seeking to acquire an opportunity to make a home upon some of these lands.

We ought to leave this subject right where the bill leaves it, to the discretion and broad experience of this department, better able to know what is the best way to bring the homebuilder to these lands, and not limit it in any way. This amendment, if it should be adopted, will remove that discretion from the department; would remove the opportunity for taking the benefit of the information and experience we have had in the past, and make it absolutely necessary that any man anywhere in the United States who cares to go before an officer and file a chance shall be thrown into this lottery, so-called, and in that way lessen, by everyone

who does this simply for the purpose of speculation, the chances of the real worthy man to obtain the land.

The CHAIRMAN. The gentleman's time has expired.

Mr. MADDEN. Mr. Chairman, I ask unanimous consent that I may be permitted to speak for five minutes on this subject.

The CHAIRMAN. The gentleman from Illinois asks unanimous consent that he may speak for five minutes. Is there objection?

Mr. HAYES. Mr. Chairman, I do not want to be unnecessarily severe, but it seems to me we have had plenty of discussion on this question, and I object.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Illinois.

Mr. SABATH. I desire to perfect the amendment by adding these few lines.

The CHAIRMAN. The gentleman from Illinois [Mr. Sabath] asks unanimous consent that this amendment may be modified as indicated by the changes made by him. The Clerk will report the modified amendment.

Mr. MONDELL. Mr. Chairman, I move to amend the amendment of the gentleman from Illinois by striking out the last word.

The CHAIRMAN. That motion is not in order. The Clerk will report the modified amendment.

The Clerk read as follows:

Modify the amendment so as to read:

Insert after "prescribed," page 12, line 7:

"That all applications for registration must show the applicant's name, post-office address, age, height, and weight, and be sworn to by him before any judge or clerk of a court of record of the county where such applicant resides, and."

The CHAIRMAN. The gentleman from Illinois [Mr. Sabath] asks unanimous consent that his amendment may be modified to this extent.

Mr. MARTIN of South Dakota. Mr. Chairman, reserving the right to object, I would like to have a reading of the proposition again.

Mr. MURPHY. Mr. Chairman, I want to offer an amendment to the amendment.

The CHAIRMAN. Without objection, the Clerk will again report the modified amendment offered by the gentleman from Illinois [Mr. Sabath].

The amendment was again read.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

Mr. MURPHY. I desire to offer an amendment.

The CHAIRMAN. An amendment to this amendment will not be in order. This amendment is an amendment to an amendment.

Mr. MANN. Mr. Chairman, I would like to suggest to the Chair that when this bill was read, when we went into Committee of the Whole, the gentleman from South Dakota asked unanimous consent that the amendment of the committee should be read in lieu of the original bill, section by section, as an original proposition, so that amendments might be offered to the amendment. That was agreed to by unanimous consent.

The CHAIRMAN. The Chair did not so understand, but the Chair may be in error. The Chair understood that it simply provided that it should be read by sections instead of as a single proposition, as would be the rule in reporting a substitute.

Mr. MONDELL. But, Mr. Chairman, the request was also made, as stated by the gentleman from Illinois,

that the substitute bill should be considered as an original bill.

Mr. MANN. As an original bill I interjected that statement, and that was the consent given.

Mr. MADDEN. A parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MADDEN. I wish to know if this amendment to the amendment of the gentleman from Illinois is pending.

The CHAIRMAN. No amendment is pending.

Mr. MADDEN. The gentleman just offered an amendment.

The CHAIRMAN. The gentleman from Illinois has simply asked unanimous consent to modify his amendment.

Mr. MADDEN. I object, Mr. Chairman, unless the amendment is open for debate.

The CHAIRMAN. In view of the explanation made by the chairman of the committee as to the unanimous consent, the Chair will hold that the amendment offered by the gentleman from Illinois is in order.

Mr. MURPHY. I want to offer an amendment, provided this amendment shall apply to a man and his children.

Mr. SABATH. That is in another section.

Mr. MURPHY. I withdraw the amendment.

Mr. MONDELL. Mr. Chairman, I now renew my motion to strike out the last word of the amendment offered by the gentleman from Illinois.

Mr. Chairman, the amendment offered by the gentleman from Illinois is well intended. His desire is a very proper and praiseworthy desire to allow a larger number of people who are seeking homes to participate in the drawing and to have an opportunity to procure a homestead. The difficulty is that the practical workings

of the plan will be exceedingly disappointing. The result of it will be, as suggested by the gentleman from South Dakota [Mr. Martin], largely to increase the number of speculative applicants. There are altogether too many under the drawings as at present conducted. There are altogether too many, as we all know, who make applications and who register without a clear idea of obtaining a home. Under the present plan, the plan heretofore followed, and which is provided in the bill, a man must at least have enough interest in the matter to travel to those lands and look them over and to have some sort of a notion as to whether if he is successful in the drawings he shall desire to make a filing.

But if you give every man and every woman throughout the land, and without regard to the question as to whether they are qualified entrymen or not, because that can not be determined under the circumstances, the right to register, you may have a million registrations. The result would be that one, perhaps, out of a hundred of those who register really desire a home. The majority of those who would register would do so in the hope that they would draw one of the first numbers and thereby get an opportunity to relinquish their claims for a consideration. So a large proportion of the first thousand or two thousand or five thousand who were drawn would have no real interest in obtaining a home, and therefore many would fail to make their filing.

The result will be that while there will be a great many more registrations than under the present plan, there will be a much smaller number of actual entries when the time comes to enter. I am in hearty accord with the idea of giving those who in good faith desire to enter these lands, pay the appraised price, and comply with the provisions of the homestead law, an

opportunity to do so, but a plan the effect of which is to make this a nation-wide lottery, with a chance for everybody who is willing to pay a quarter or half a dollar in the way of a fee to a notary to participate in this drawing for preferences in entry, instead of securing a larger number of real bona fide farmer entrymen for the lands, will simply increase vastly the number of those who register with no other thought than the hope of drawing a prize. It will discourage rather than encourage the real intending settler.

Mr. MADDEN. I move to strike out the last two words.

The CHAIRMAN. There is an amendment pending to strike out the last word.

Mr. MADDEN. I rise to oppose that amendment.

The CHAIRMAN. The Chair will recognize the gentleman.

Mr. MADDEN. Mr. Chairman, I think that every citizen of the United States should have an opportunity of securing a home if he wants it, and therefore I think every citizen of the United States who wishes to register for the drawings provided, when lands of the character indicated in this bill are to be opened, should have that chance. It does not matter whether we have 100 registries or 1,000,000. The more the better. It is not fair to say that men who take the trouble to register have no intention of assuming the responsibility of the entry. It is not fair to assume that because a man does not want to expend the money to go on a wild-goose chase, he does not want a farm. It is not fair to say that a man who wants to register in New York or Boston or Chicago would not make as good a farmer as the man who lives in Dakota and wants to register. It is not fair to say that men will register for the speculative value that will come by reason of selections

they may have an opportunity to make. It is not fair to say that if an allotment is made to a man who registers, he will sell the thing allotted to him as a matter of speculation.

A very large percentage of our American citizenship would like to have a fair opportunity of getting a farm at a reasonable price. The number who do not care to go to the expense of traveling to the point where selections of land are to be made, without any knowledge of whether they are to get a farm or not, is enormous; but the fact remains that this plan suggested by my colleague [Mr. Sabath] is not only orderly in its methods of procedure, but it is the most orderly method that could be adopted. To say that because a larger number will register you do not get as good a class of citizens who want to settle on the lands is an absurdity, and the opinions of the gentleman from Wyoming and the gentleman from Dakota as to the class of citizens who will register are of no more importance than an opinion that may be given by somebody who does not live near Dakota or Wyoming.

Mr. MONDELL. Will the gentleman yield to me?

Mr. MADDEN. I have no time to yield.

Mr. MONDELL. The gentleman does not want to misstate my position.

Mr. MADDEN. The gentleman stated that the class of citizenship who made application for the opportunity of getting the land, and who were not willing to go on the land to see it and indicate their desire to occupy the land, would not be as good as that of those who were willing to go to the ground.

Mr. MONDELL. I did not say that, Mr. Chairman. I said there would be more speculative applicants.

Mr. MADDEN. The gentleman only expressed that as an opinion, and an opinion without knowledge is not worth much. [Laughter.]

The CHAIRMAN. If there is no objection, the pro forma amendment will be considered as withdrawn. The question is on agreeing to the amendment offered by the gentleman from Illinois [Mr. Sabath].

The question was taken, the Chair announced that the ayes appeared to have it.

Mr. BURKE of South Dakota. I demand tellers.

Tellers were refused, 17 Members, not a sufficient number, rising in support of the demand.

Accordingly the amendment was agreed to.

The Clerk began the reading of section 3.

Mr. MURPHY (interrupting the reading). Mr. Chairman, I want to offer an amendment.

The CHAIRMAN. The Chair will ask the gentleman to please wait until the Clerk has finished the reading of the section.

Mr. MURPHY. I want to offer the amendment to section 2.

The CHAIRMAN. The Chair thinks the gentleman is too late to offer an amendment to section 2. Was the gentleman on his feet seeking recognition before the Clerk began the reading of section 3?

Mr. MURPHY. Yes; I was trying to get recognition.

The CHAIRMAN. The Chair will recognize the gentleman to offer his amendment.

Mr. MURPHY. Mr. Chairman, I offer the following amendment, which I send to the Clerk's desk and ask to have read.

The Clerk read as follows:

Insert at the end of section 2 the following:

"*Provided*, That the applicants for registering shall be a married man or woman with one child or more."

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken, and the amendment was rejected.

The CHAIRMAN. The Clerk will conclude the reading of section 3.

The Clerk read as follows:

Sec. 3. That before any of the land is disposed of, as hereinafter provided, and before the State of South Dakota shall be permitted to select or locate any lands to which it may be entitled by reason of the loss of sections 16 or 36, or any portions thereof, by reason of allotments thereof to any Indian or Indians, the Secretary of the Interior is authorized to reserve from said lands such tracts for town-site purposes as in his opinion may be required for the future public interests, and he may cause same to be surveyed into lots and blocks and disposed of under such regulations as he may prescribe; and he is hereby authorized to set apart and reserve for school, park, and other public purposes not more than 10 acres in any town site, and patents shall be issued for the lands so set apart and reserved for school, park, and other purposes to the municipality legally charged with the care and custody of lands donated for such purposes. The purchase price of all town lots sold in town sites, as hereinafter provided, shall be paid at such time and in such installments as the Secretary of the Interior may direct, and he shall cause not more than 20 per cent of the net proceeds arising from such sale to be set apart and expended under his direction in the construction of schoolhouses or other public buildings or in improvements in the town sites in which such lots are located. The net proceeds derived from the sale of such lots and lands within the town sites as aforesaid shall be credited to the Indians, as hereinafter provided.

Mr. BURKE of South Dakota. Mr. Chairman, I offer the following amendment to section 3, which I send to the desk and ask to have read.

The Clerk read as follows:

Page 13, line 10, after the word "other," insert the word "public," so as to read "other public purposes."

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken and the amendment was agreed to.

Mr. BURKE of South Dakota. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Page 13, line 21, after the word "aforesaid," insert "less the amount set aside to aid in the construction of schoolhouses or other public buildings or improvements."

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken, and the amendment was agreed to.

The Clerk read as follows:

Sec. 4. That the price of said lands entered as homesteads under the provisions of this act shall be fixed by appraisements, as herein provided. The President of the United States shall appoint a commission to consist of three persons to classify, appraise, and value all of said lands that shall not have been allotted in severalty to said Indians, or reserved by the Secretary of the Interior or otherwise disposed of, and excepting sections 16 and 36 in each of said townships, said commission

to be constituted as follows: One resident citizen of the State of South Dakota, one representative of the Interior Department, and one person holding tribal relations with said tribe of Indians. That within twenty days after their appointment the said commissioners shall meet and organize by the election of one of their number as chairman. The said commissioners shall then proceed to personally inspect, classify, and appraise, in 160-acre tracts each, all of the remaining unallotted lands embraced within that portion of the reservation described in section 1 of this act. In making such classification and appraisal said lands shall be divided into the following classes: First, agricultural land of the first class; second, agricultural land of the second class; third, grazing land; fourth, timber land; fifth, mineral land, if any, but the mineral land shall not be appraised. That said commissioners shall be paid a salary of not to exceed \$10 per day each while actually employed in the inspection and classification of said lands, and necessary expenses to be approved by the Secretary of the Interior, such inspection and classification to be completed within six months from the date of organization of said commission.

Mr. BURKE of South Dakota. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Page 14, line 5, after the word "thirty-six," insert "or other lands which may be selected in lieu thereof by the State of South Dakota."

The CHAIRMAN. The question is on agreeing to the amendment.

Mr. BURKE of South Dakota. Mr. Chairman, that simply is an amendment that is necessary to conform to what the committee has reported to the House.

Mr. STAFFORD. Will the gentleman permit a question there? I assume that the State of South Dakota has selected other sections besides sections 16 and 36 for school-section lands when they were included within the reservations?

Mr. BURKE of South Dakota. It has not.

Mr. PARSONS. Might not that amendment, perhaps, authorize the State of South Dakota to select these lieu lands in other public lands than these Indian reservations?

Mr. BURKE of South Dakota. Not at all. This is simply qualifying, so that it will read:

Excepting sections 16 and 36, or other lands which may be selected in lieu thereof by the State of South Dakota.

The law authorizes that if sections 16 or 36 have to be taken by an Indian then the State may take other lands in the same township of equal value.

Mr. PARSONS. This law does?

Mr. BURKE of South Dakota. Yes; and all the bills that have been passed relating to Indian reservations. This amendment simply makes the bill read as the committee reported it.

Mr. STAFFORD. As I understand it, there have been no allotments to Indians of any of the school lands, so far as South Dakota is concerned.

Mr. BURKE of South Dakota. There have been, of section 16 or section 36, and in those cases we permit to take land in lieu thereof in the same township in which they lose section 16 or section 36; and if it can not be gotten in that township, in the adjoining township.

Mr. PARSONS. But it all has to come out of the Indian lands?

Mr. BURKE of South Dakota. It all has to come out of the Indian lands.

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken, and the amendment was agreed to.

Mr. BURKE of South Dakota. Now, Mr. Chairman, on the same page, line 21, after the word "mineral," insert "and timber."

The CHAIRMAN. The gentleman from South Dakota offers an amendment, which the Clerk will report.

The Clerk read as follows:

Page 14, line 21, after the word "mineral," insert "and timber."

Mr. BURKE of South Dakota. That is another amendment with the same purpose.

Mr. STAFFORD. Will the gentleman explain why he recommends an exception in appraisal of mineral and timber lands?

Mr. BURKE of South Dakota. Because they are not to be disposed of. We are reserving them. Consequently we provide that they shall not be appraised.

Mr. BUTLER. May I ask the gentleman a question?

Mr. BURKE of South Dakota. Yes.

Mr. BUTLER. From the phraseology of the bill you reported I understand that mineral lands, if any, shall not be appraised. Now, you propose to add the words "and timber lands." You will find in the latter part of the sentence the words "but the mineral lands shall not be appraised." Do you propose to appraise the mineral lands?

Mr. BURKE of South Dakota. That is what I am asking. That is now pending.

Mr. MONDELL. What is the gentleman's purpose in not disposing of the timber lands?

Mr. BURKE of South Dakota. We are providing in this bill and in the other bill that is exactly in the same form for reserving the timber land for the use of the Indians as a forest. As a matter of fact, on this particular reservation there is not a single stick of timber, but the department seems to think the timber ought to be conserved, and so we put this language in the bill.

Mr. MONDELL. You are conserving some timber that does not exist.

Mr. BURKE of South Dakota. So far as this reservation is concerned, that is true, but we are establishing a precedent that might be good to follow in other reservations where there may be timber.

The CHAIRMAN. The question is on agreeing to the amendment.

Mr. BUTLER. Let us have the amendment again reported to the House.

The CHAIRMAN. Without objection, the Clerk will again report the amendment.

The amendment was again read.

The CHAIRMAN. The question is on agreement to the amendment.

The question was taken, and the amendment was agreed to.

Mr. BURKE of South Dakota. Now, Mr. Chairman, in the same line, after the word "appraise," insert:

That timber may be classified without regard to acreage: *And provided further*, That any lands classified as timber lands shall not be disposed of, but shall be reserved for the use of the Rosebud Indians.

The CHAIRMAN. The gentleman from South Dakota offers an amendment, which the Clerk will report.

The Clerk read as follows:

Page 14, line 12, after the word "appraise," insert:

"Provided, That timber land may be classified without regard to acreage: And provided further, That any land classified as timber land shall not be disposed of, but shall be reserved for the use of the Rosebud Indians."

Mr. STAFFORD. Will the gentleman kindly explain that proviso?

Mr. BURKE of South Dakota. This proviso is intended to reserve these lands for the use of the Indians, and that is the purpose of the amendment.

Mr. STAFFORD. Why should not that be the purpose, so far as the mineral lands are concerned?

Mr. BURKE of South Dakota. We do not attempt to reserve the mineral lands for the use of the Indians, because they would not be of any good. We anticipate that the timber would be of some benefit to them.

Mr. PARSONS. What do you do with the mineral lands?

Mr. BURKE of South Dakota. We do not make any disposition of them. There is no mineral land, as a matter of fact, within these tracts.

Mr. STAFFORD. The mineral lands are in the same category, but neither of them exists.

Mr. BURKE of South Dakota. In this particular reservation they do not exist.

Mr. PARSONS. What happens to mineral lands, if there are any?

Mr. BURKE of South Dakota. They are reserved, to be disposed of as Congress may provide at some future time. There is a bill now pending providing for the leasing of lands valuable for mineral upon Indian

reservations. There is no law, as I understand, that authorizes the mining of such lands.

Mr. BUTLER. How many acres of land are there in this reservation?

Mr. BURKE of South Dakota. Seven or eight hundred thousand acres.

Mr. BUTLER. How many acres are supposed to be known as timber lands?

Mr. BURKE of South Dakota. There is, as a matter of fact, no timber land in this reservation. We doubt if there will be found any lands that will be regarded as timber lands. But it was put in as a mere matter of precaution.

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken, and the amendment was agreed to.

Mr. BURKE of South Dakota. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The gentleman from South Dakota offers an amendment, which the Clerk will report.

The Clerk read as follows:

Page 14, line 24, after the word "expenses," insert "exclusive of subsistence."

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken, and the amendment was agreed to.

The Clerk read as follows:

Sec. 6. That the price of said lands disposed of under the homestead laws shall be paid in accordance with the rules and regulations to be prescribed by the Secretary of the Interior upon the following terms: One-fifth of the purchase price to

be paid in cash at the time of entry and the balance in five equal annual installments, to be paid in one, two, three, four, and five years, respectively, from and after the date of entry. In case any entryman fails to make the annual payments, or any of them, when due, all rights in and to the land covered by his entry shall cease, and any payments theretofore made shall be forfeited and the entry canceled, and the lands shall be reoffered for sale and entry under the provisions of the homestead law at the appraised price thereof: *And provided*, That nothing in this act shall prevent homestead settlers from commuting their entries under section 2301, Revised Statutes, by paying for the land entered the appraised price, receiving credit for payments previously made. In addition to the price to be paid for the land, the entryman shall pay the same fees and commissions at the time of commutation or final entry as now provided by law where the price of land is \$1.25 per acre, and when the entryman shall have complied with all the requirements and terms of the homestead laws as to settlement and residence and shall have made all the required payments aforesaid he shall be entitled to a patent for the lands entered: *And provided further*, That all lands remaining undisposed of at the expiration of four years from the opening of said lands to entry may, in the discretion of the Secretary of the Interior, be reappraised in the manner provided for in this act: *And it is further provided*, That any lands remaining unsold after said lands have been open to entry for seven years may be sold to the highest bidder for cash without regard to the prescribed price thereof fixed under the provisions of this act, under such rules and regulations as the Secretary

of the Interior may prescribe, and patents shall be issued therefor.

Mr. BURKE of South Dakota. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Page 15, line 13, after the words "paid in," strike out the word "one" and insert the word "two." On page 15, line 14, strike out the words "two, three, four, and five" and insert the words "three, four, five, and six."

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken, and the amendment was agreed to.

Mr. BURKE of South Dakota. Mr. Chairman, I now offer an amendment, in line 19, page 15, after the words "shall be," strike out the words "reoffered for sale and" and insert the words "again subject to." That is a committee amendment.

The Clerk read as follows:

Page 15, line 19, after the words "shall be," strike out the words "reoffered for sale and" and insert in lieu thereof "again subject to."

The CHAIRMAN. The question is on agreeing to the amendment.

Mr. STAFFORD. Mr. Chairman, I would like the gentleman to explain the purpose of the amendment which is pending.

Mr. BURKE of South Dakota. Simply that the language is better than the words "reoffered for sale." These lands are disposed of under the provisions of the homestead law, which simply provides that if a tract is forfeited by an entryman who has previously entered and failed to comply with the requirements of the law,

the land shall be again subject to entry under the provisions of the homestead law.

Mr. MANN. That is all right.

Mr. BURKE of South Dakota. Instead of "reoffered for sale." That is not the usual language.

Mr. STAFFORD. The language does not change the intendment of the law?

Mr. BURKE of South Dakota. Not at all. This is a committee amendment.

The question was taken, and the amendment was agreed to.

Mr. MANN. Mr. Chairman, I move to strike out, on page 16, the lines 13, 14, 15, 16, 17, and 18.

The CHAIRMAN. The gentleman from Illinois offers an amendment, which the Clerk will read.

The Clerk read as follows:

Page 16, strike out lines 13 to 18, inclusive.

Mr. BURKE of South Dakota. Mr. Chairman, I ask unanimous consent that the amendment may be considered as agreed to. I do not object to it at all.

The question was taken, and the amendment was agreed to.

Mr. MANN. And insert a period after the word "act," in line 12, instead of the colon.

The Clerk read as follows:

Sec. 8. That sections 16 and 36 of the land in each township within the tract described in section 1 of this act shall not be subject to entry, but shall be reserved for the use of the common schools and paid for by the United States at \$2.50 per acre, and the same are hereby granted to the State of South Dakota for such purpose, and in case any of said sections, or parts thereof, are lost to said State by reason of allotments thereof to

any Indian or Indians, or otherwise, the governor of said State, with the approval of the Secretary of the Interior, is hereby authorized, within the area described in section 1 of this act, to locate other lands not otherwise appropriated, which shall be paid for by the United States as herein provided, in quantity equal to the loss, and such selections shall be made prior to the opening of such lands to settlement: *Provided*, That in any event not more than two sections shall be granted to the State in any one township, and lands must be selected in lieu of sections 16 or 36, or any part thereof, within the township in which the loss occurs, except in any township where there may not be two sections of unallotted lands, in which event whatever is required to make two sections may be selected in any adjoining township.

Mr. BURKE of South Dakota. Mr. Chairman, on page 17, line 22, after "thirty-six" insert "or both."

The Clerk read as follows:

Page 17, line 22, after the word "thirty-six," insert "or both."

The question was taken, and the amendment was agreed to.

Mr. STAFFORD. Mr. Chairman, I move to strike out the last word. I would like to ask the gentleman, the chairman of the committee, as to whether South Dakota at present has a right to select sections 16 and 36 in each township for school purposes, including those in Indian reservations?

Mr. BURKE of South Dakota. I will say to the gentleman that the enabling act absolutely granted to the State sections 16 and 36. In Indian reservations it provided that the grant did not become applicable until the Indian title became extinguished.

Mr. STAFFORD. There was a right given to the State to choose other land in lieu of these sections if they were included within Indian reservations.

Mr. BURKE of South Dakota. That has always been the rule where the State lost section 16 or 36. They have always been permitted to take lieu lands in order to make up for the loss.

Mr. STAFFORD. Has South Dakota in any instance selected lands without the reservation in lieu of those school sections which lie in the reservation?

Mr. BURKE of South Dakota. It has not.

Mr. STAFFORD. Otherwise you would be conferring a double privilege upon the State of South Dakota by the language of this section.

The CHAIRMAN. Without objection, the pro forma amendment will be considered as withdrawn.

The Clerk read as follows:

Sec. 9. That there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of not more than \$125,000, or so much thereof as may be necessary, to pay for the lands granted to the State of South Dakota, as provided in section 7 of this act. And there is hereby appropriated the further sum of \$25,000, or so much thereof as may be necessary, for the purpose of making the appraisement and classification provided for herein: *Provided*, That the latter appropriation or any further appropriation hereafter made for the purpose of carrying out the provisions of this act shall be reimbursed to the United States from the proceeds received from the sale of the lands described herein or from any money in the Treasury belonging to said Indian tribe.

Mr. BURKE of South Dakota. Mr. Chairman, I have a committee assignment. On page 18, line 6, strike out "twenty-five" and insert "thirty-five."

The CHAIRMAN. The gentleman from South Dakota offers an amendment with the Clerk will report.

The Clerk read as follows:

Page 18, line 6, strike out "twenty-five" and insert "thirty-five," so that it will read "\$35,000."

Mr. BUTLER. What is the reason for offering that amendment?

Mr. BURKE of South Dakota. The amount stated in the bill is found on computation not to be sufficient.

The question being taken, the amendment was agreed to.

Mr. BYRNS. I wish to ask the gentleman from South Dakota if the word "seven," in line 9, should not be "eight?" Should not that be section 8 instead of section 7? I think the "seven" is a typographical error.

Mr. BURKE of South Dakota. That should be section 8. On page 18, line 9, I move to strike out "seven" and insert "eight."

The CHAIRMAN. The gentleman from South Dakota offers an amendment, which the Clerk will report.

The Clerk read as follows:

On page 18, in line 9, strike out "seven" and insert "eight."

The amendment was agreed to.

The Clerk read as follows:

Sec. 10. That every persons who shall sell or give away any intoxicating liquors upon any of the lands allotted or to be allotted, reserved, or disposed of within the tract described in section 1 of this act, upon conviction thereof shall be punishable by imprisonment for not more than

two years or by a fine of not more than \$500, or by both such fine and imprisonment.

Mr. BURKE of South Dakota. Mr. Chairman, I offer as a substitute for section 10 the amendment which I send to the Clerk's desk.

The Clerk read as follows:

Page 18, strike out section 10 and insert as section 10 the following:

"Sec. 10. That the lands allotted, those retained or reserved, and the surplus lands sold or otherwise disposed of shall be subject for a period of twenty-five years to all the laws of the United States prohibiting the introduction of intoxicants into the Indian country."

The CHAIRMAN. Does the gentleman from South Dakota desire to be recognized in support of this amendment?

Mr. BURKE of South Dakota. This subject was debated at great length in the general debate, and I stated at that time that I would offer this provision which has just been read from the Clerk's desk. This is the language that has been incorporated in a number of bills that have been passed in the present Congress.

I may say, furthermore, that we have adopted this provision because it has substantially been sustained by a decision of the Supreme Court of the United States in *Dick v. United States* (208 U.S., 340, 354).

Mr. BUTLER. I will ask the gentleman what is the penalty imposed by the present statute?

Mr. BURKE of South Dakota. I am not certain, but my opinion is that it is much more severe than what is provided here. I am not certain as to that, but I know the penalties are very severe.

Mr. SABATH. Will it be in order to offer a substitute for the amendment?

The CHAIRMAN. It will be in order to offer an amendment to the substitute.

Mr. SABATH. I desire to amend, in line 16, by striking out the word "introduction" and to substitute for it the word "sale," and in line 17 to strike out the words "into the" and insert "to any."

Mr. FERRIS. I think the gentleman is looking at the wrong paragraph.

The CHAIRMAN. That is not the paragraph that is under consideration.

Mr. GOEBEL. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. GOEBEL. The gentleman from South Dakota offers an amendment. Now, I understand that that is to be considered as the original proposition contained in the bill.

The CHAIRMAN. No; it is an amendment to it.

Mr. GOEBEL. What I want to know is whether I can move to strike out that amendment.

Mr. MANN. The gentleman can vote against it; that is all.

Mr. BURKE of South Dakota. In view of the fact that the amendment which I propose is one to perfect the measure, and is the one which was agreed to by the committee instead of the section which appears in the bill, I ask unanimous consent that the bill be so amended, and then let it be subject to amendment as an original proposition.

The CHAIRMAN. The gentleman from South Dakota asks unanimous consent that the amendment which he sends to the Clerk's desk be submitted for section 10 and treated as a part of the bill. Is there objection?

Mr. MANN. Reserving the right to object, if it is present in the form of a substitute in that way, of course it will have been agreed to by the committee, and can not then either be changed or stricken out. If the proposition is that this shall be considered as having been in the bill as reported—

Mr. BURKE of South Dakota. That is the proposition.

Mr. FITZGERALD. Mr. Chairman, I object to that.

The CHAIRMAN. Objection is heard. The gentleman from Illinois [Mr. Sabath] moves to amend the amendment offered by the gentleman from South Dakota as the Clerk will report.

The Clerk read as follows:

Amend the amendment so as to read:

"That the lands allotted, those retained or reserved, and the surplus lands sold or otherwise disposed of shall be subject for a period of twenty-five years to all the laws of the United States prohibiting the sale of intoxicants to any Indian."

The CHAIRMAN. The question is on agreeing to the amendment to the substitute offered by the gentleman from Illinois.

Mr. BURKE of South Dakota. Mr. Chairman, I hope the amendment of the gentleman will not prevail.

Mr. SABATH. Mr. Chairman, it appears to me that some of the gentlemen do not understand my proposed amendment. I merely change the word "introduction," in line 16, and substitute the word "sale;" and change the words "into the," in line 17, and substitute therefor the words "to any;" and strike out the word "country," so that the provision reads now:

That the lands allotted, those retained or reserved, and the surplus lands sold or otherwise

disposed of shall be subject for a period of twenty-five years to all the laws of the United States prohibiting the sale of intoxicants to any Indian.

Mr. MANN. Mr. Chairman, I suppose the gentleman knows that that would mean nothing.

Mr. SABATH. Why not?

Mr. MANN. Because we have a law on the statute books against the introduction of liquor into any Indian country. It has been on the statute books since long before the gentleman and I came on earth.

Mr. SABATH. This would prevent the sale of liquor to any Indian.

Mr. CAMPBELL. That is against the law now.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Illinois.

The question was taken, and the amendment was rejected.

The CHAIRMAN. The question now recurs on the amendment offered by the gentleman from South Dakota.

Mr. GOEBEL. Is this to be voted upon now—the provision as offered by the gentleman from South Dakota?

The CHAIRMAN. Yes. The question is on agreeing to the amendment offered by the gentleman from South Dakota.

The question was taken, and the amendment was agreed to.

The Clerk read as follows:

Sec. 11. That nothing in this act contained shall in any manner bind the United States to purchase any portion of the land herein described, except sections 16 and 36, or the equivalent, in each township; or to dispose of said land except as

provided herein, or to guarantee to find purchasers for said lands or any portion thereof, it being the intention of this act that the United States shall act as trustee for said Indians to dispose of the said lands, and to expend and pay over the proceeds received from the sale thereof only as received and as herein provided: *Provided*, That nothing in this act shall be construed to deprive the said Indians of the Rosebud Indian Reservation of any benefits to which they are entitled under existing treaties or agreements not inconsistent with the provisions of this act.

The CHAIRMAN. The question now is on agreeing to the committee amendment as amended.

The question was taken, and the committee amendment as amended was agreed to.

Mr. BURKE of South Dakota. Mr. Chairman, I move that the committee do now rise and report the bill to the House with a recommendation that as amended it do pass.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. Currier, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill S. 183, and had directed him to report the same back to the House with amendments, with a recommendation that the amendments be agreed to and that the bill as amended do pass.

Mr. BURKE of South Dakota. Mr. Speaker, I move the previous question on the bill and amendments to final passage.

The previous question was ordered.

The SPEAKER. The question is on agreeing to the amendments.

The question was taken, and the amendments were agreed to.

The bill as amended was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "An act to authorize the sale and disposition of a portion of the surplus and unallotted lands in Mellette and Washa-baugh counties in the Rosebud Indian Reservation in the State of South Dakota, and making appropriation and provision to carry the same into effect."

[45 Cong. Rec. 5483 (1910)]

Mr. JOHNSTON. This only gives these cadets the privileges of the act.

Mr. GALLINGER. If it simply gives them the privileges of the act, I have no objection to it.

The joint resolution was reported to the Senate as amended, and the amendment was concurred in.

The joint resolution was ordered to be engrossed for a third reading, read the third time, and passed.

* * *

ROSEBUD INDIAN RESERVATION LANDS.

The VICE-PRESIDENT laid before the Senate the amendments of the House of Representatives to the bill (S. 183) to authorize the sale and disposition of a portion of the surplus and unallotted lands in the Rosebud Indian Reservation, in the State of South Dakota, and making appropriation and provision to carry the same into effect.

Mr. GABLE. I move that the Senate disagree to the amendments of the House and request a conference on the disagreeing votes of the two Houses thereon, the conferees on the part of the Senate to be appointed by the Chair.

The motion was agreed to; and the Vice-President appointed Mr. Gamble, Mr. Clapp, and Mr. Purcell the conferees on the part of the Senate.

[45 Cong. Rec. 5538 (1910)]

THE ROSEBUD INDIAN RESERVATION.

The SPEAKER laid before the House the bill S. 183, to authorize the sale and disposition of a portion of the surplus and unallotted lands in the Rosebud Indian Reservation, in the State of South Dakota, and making appropriation and provision to carry the same into effect, with sundry House amendments disagreed to.

Mr. BURKE of South Dakota. Mr. Speaker, I move that the House insist on its amendments and agree to the conference asked by the Senate.

The motion was agreed to.

The SPEAKER announced the following conferees: Mr. Burke of South Dakota, Mr. Campbell, and Mr. Stephens of Texas.

[45 Cong. Rec. 6324-6326 (1910)]

ROSEBUD INDIAN RESERVATION, S. DAK.

Mr. GAMBLE submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 183) authorizing the sale and disposition of a portion of the surplus and unallotted lands in the Rosebud Indian Reservation, in the State of South Dakota, and making appropriation and provision to carry the same into effect, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows: In lieu of the matter inserted by said amendment insert the following:

"That the Secretary of the Interior be, and he is hereby, authorized and directed, as hereinafter provided, to sell and dispose of all that portion of the Rosebud Indian Reservation, in the State of South Dakota, lying and being within the counties of Mellette and Washabaugh, south of the White River, and being described and bounded as follows: Beginning at a point on the third guide meridian west where the township line between townships thirty-nine and forty intersects the same, thence north along said guide meridian to the middle of the channel of White River, thence west along the middle of the main channel of White River to the point of intersection with the line dividing the Rosebud and the Pine Ridge Indian reservations, thence south along the boundary line between said reservations to the township line separating townships thirty-nine

and forty, thence east along said township line to the place of beginning, except such portions thereof as have been or may be hereafter allotted to Indians or otherwise reserved, and except lands classified as timber lands: *Provided*, That any Indians to whom allotments have been made on the tract to be ceded may, in case they elect to do so before said lands are offered for sale, relinquish same and select allotments in lieu thereof on the diminished reservation: *And provided further*, That the Secretary of the Interior may reserve such lands as he may deem necessary for agency, school, and religious purposes, to remain reserved as long as needed and as long as agency, school, or religious institutions are maintained thereon for the benefit of said Indians: *And provided further*, That the Secretary of the Interior is hereby authorized and directed to issue a patent in fee simple to the duly authorized missionary board, or other authority, of any religious organization heretofore engaged in mission or school work on said reservation for such lands thereon (not included in any town site hereinafter provided for) as have heretofore been set apart to such organization for mission or school purposes.

"Sec. 2. That the lands shall be disposed of under the general provisions of the homestead and town-site laws of the United States, and shall be opened to settlement and entry by proclamation of the President, which proclamation shall prescribe the manner in which the lands may be settled upon, occupied, and entered by persons entitled to make entry thereof, and no person shall be permitted to settle upon, occupy, or enter any of said lands except as prescribed in such proclamation: *Provided*, That prior to said proclamation the allotments within the portion of the said Rosebud Reservation to be disposed of as prescribed herein shall

have been completed: *Provided further*, That the rights of honorably discharged Union soldiers and sailors of the late civil and Spanish wars or Philippine insurrection, as defined and described in sections twenty-three hundred and four and twenty-three hundred and five of the Revised Statutes as amended by the act of March first, nineteen hundred and one, shall not be abridged.

"Sec. 3. That before any of the land is disposed of, as hereinafter provided, and before the State of South Dakota shall be permitted to select or locate any lands to which it may be entitled by reason of the loss of sections sixteen or thirty-six, or any portions thereof, by reason of allotments thereof to any Indian or Indians, the Secretary of the Interior is authorized to reserve from said lands such tracts for town-site purposes as in his opinion may be required for the future public interests, and he may cause same to be surveyed into lots and blocks and disposed of under such regulations as he may prescribe; and he is hereby authorized to set apart and reserve for school, park, and other public purposes not more than ten acres in any town site, and patents shall be issued for the lands so set apart and reserved for school, park, and other public purposes to the municipality legally charged with the care and custody of lands donated for such purposes. The purchase price of all town lots sold in town sites, as hereinafter provided, shall be paid at such time and in such installments as the Secretary of the Interior may direct, and he shall cause not more than twenty per centum of the net proceeds arising from such sales to be set apart and expended under his direction in the construction of schoolhouses or other public buildings or in improvements within the town sites in which such lots are located. The net proceeds derived from the sale of such lots and lands within the town sites as afore-

said, less the amount set aside to aid in the construction of schoolhouses or other public buildings or improvements, shall be credited to the Indians, as hereinafter provided.

"Sec. 4. That the price of said lands entered as homesteads under the provisions of this act shall be fixed by appraisement, as herein provided. The President shall appoint a commission to consist of three persons to classify, appraise, and value all of said lands that shall not have been allotted in severalty to said Indians, or reserved by the Secretary of the Interior or otherwise disposed of, and excepting sections sixteen and thirty-six or other lands which may be selected in lieu thereof by the State of South Dakota, in each of said townships, said commission to be constituted as follows: One resident citizen of the State of South Dakota, one representative of the Interior Department, and one person holding tribal relations with said tribe of Indians. That within twenty days after their appointment the said commissioners shall meet and organize by the election of one of their number as chairman. The said commissioners shall then proceed to personally inspect, classify, and appraise, in one hundred and sixty acre tracts each, all of the remaining unallotted lands embraced within that portion of the reservation described in section one of this act. In making such classification and appraisement said lands shall be divided into the following classes: First, agricultural land of the first class; second, agricultural land of the second class; third, grazing land; fourth, timber land; fifth, mineral land, if any, but the mineral and timber lands shall not be appraised: *Provided*, That timber lands may be classified without regard to acreage: *And provided further*, That all lands classified as timber lands shall be reserved for the use of the Rosebud

Indians. That said commissioners shall be paid a salary of not to exceed ten dollars per day each while actually employed in the inspection, classification, and appraisement of said lands, and necessary expenses, exclusive of subsistence, to be approved by the Secretary of the Interior, such inspection, classification, and appraisement to be completed within six months from the date of organization of said commission.

"Sec. 5. That said commission shall be governed by regulations prescribed by the Secretary of the Interior; and after the completion of the classification and appraisement of all of said lands the same shall be subject to the approval of the Secretary of the Interior.

"Sec. 6. That the price of said lands disposed of under the homestead laws shall be paid in accordance with rules and regulations to be prescribed by the Secretary of the Interior upon the following terms: One-fifth of the purchase price to be paid in cash at the time of entry and the balance in five equal annual installments, to be paid in two, three, four, five, and six years, respectively, from and after the date of entry. In case any entryman fails to make the annual payments, or any of them, when due, all rights in and to the land covered by his entry shall cease, and any payments theretofore made shall be forfeited and the entry canceled, and the lands shall be again subject to entry under the provisions of the homestead law at the appraised price thereof: *And provided*, That nothing in this act shall prevent homestead settlers from commuting their entries under section twenty-three hundred and one, Revised Statutes, by paying for the land entered the appraised price, receiving credit for payments previously made. In addition to the price to be paid for the land, the entryman shall pay the same fees and commissions at the time of commutation or final

entry as now provided by law where the price of land is one dollar and twenty-five cents per acre, and when the entryman shall have complied with all the requirements and terms of the homestead laws as to settlement and residence and shall have made all the required payments aforesaid he shall be entitled to a patent for the lands entered: *And provided further*, That all lands remaining undisposed of at the expiration of four years from the opening of said lands to entry may, in the discretion of the Secretary of the Interior, be reappraised in the manner provided for in this act.

"Sec. 7. That from the proceeds arising from the sale and disposition of the lands aforesaid, exclusive of the customary fees and commissions, there shall be deposited in the Treasury of the United States, to the credit of the Indians belonging and having tribal rights on the said reservation, the sums to which the said tribe may be entitled, which shall draw interest at three per cent per annum; that the moneys derived from the sale of said lands and deposited in the Treasury of the United States to the credit of said Indians shall be at all times subject to appropriation by Congress for their education, support, and civilization.

"Sec. 8. That sections sixteen and thirty-six of the land in each township within the tract described in section one of this act shall not be subject to entry, but shall be reserved for the use of the common schools and paid for by the United States at two dollars and fifty cents per acre, and the same are hereby granted to the State of South Dakota for such purpose, and in case any of said sections, or parts thereof, are lost to said State by reason of allotments thereof to any Indian or Indians, or otherwise, the governor of said State, with the approval of the Secretary of the Interior, is hereby authorized, within the area described in section

one of this act, to locate other lands not otherwise appropriated, which shall be paid for by the United States as herein provided, in quantity equal to the loss, and such selections shall be made prior to the opening of such lands to settlement: *Provided*, That in any event not more than two sections shall be granted to the State in any one township, and lands must be selected in lieu of sections sixteen or thirty-six, or both, or any part thereof, within the township in which the loss occurs, except in any township where there may not be two sections of unallotted lands, in which event whatever is required to make two sections may be selected in any adjoining township.

"Sec. 9. That there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of not more than one hundred and twenty-five thousand dollars, or so much thereof as may be necessary, to pay for the lands granted to the State of South Dakota, as provided in section eight of this act. And there is hereby appropriated the further sum of thirty-five thousand dollars, or so much thereof as may be necessary, for the purpose of making the appraisal and classification provided for herein: *Provided*, That the latter appropriation, or any further appropriation hereafter made for the purpose of carrying out the provisions of this act, shall be reimbursed to the United States from the proceeds received from the sale of the lands described herein or from any money in the Treasury belonging to said Indian tribe.

"Sec. 10. That the lands allotted, those retained or reserved, and the surplus land sold, set aside for town-site purposes, granted to the State of South Dakota, or otherwise disposed of, shall be subject for a period of twenty-five years to all the laws of the United States

prohibiting the introduction of intoxicants into the Indian country.

"Sec. 11. That nothing in this act contained shall in any manner bind the United States to purchase any portion of the land herein described, except sections sixteen and thirty-six, or the equivalent in each township, or to dispose of said land except as provided herein, or to guarantee to find purchasers for said lands or any portion thereof, it being the intention of this act that the United States shall act as trustee for said Indians to dispose of the said lands, and to expend and pay over the proceeds received from the sale thereof only as received and as herein provided: *Provided*, That nothing in this act shall be construed to deprive the said Indians of the Rosebud Indian Reservation of any benefits to which they are entitled under existing treaties or agreements not inconsistent with the provisions of this act."

And the Senate agree to the same.

AMENDMENT OF TITLE.

That the Senate recede from its disagreement to the amendment of the House.

Robert J. Gamble,
Moses E. Clapp,
W. E. Purcell,

Managers on the part of the Senate.

Chas. H. Burke,
P. P. Campbell,
John H. Stephens,

Managers on the part of the House.

The report was agreed to.

[45 Cong. Rec. 6379-6381 (1910)]

ROSEBUD INDIAN RESERVATION, S. DAK.

Mr. BURKE of South Dakota submitted the following conference report on the bill (S. 183) authorizing the sale and disposition of a portion of the surplus and unallotted land of the Rosebud Indian Reservation, in South Dakota, for printing under the rule.

The conference report (No. 1368) and statement are as follows:

CONFERENCE REPORT.

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 183) authorizing the sale and disposition of a portion of the surplus and unallotted lands in the Rosebud Indian Reservation, in the State of South Dakota, and making appropriation and provision to carry the same into effect, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House, and agree to the same with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

"That the Secretary of the Interior be, and he is hereby, authorized and directed, as hereinafter provided, to sell and dispose of all that portion of the Rosebud Indian Reservation, in the State of South Dakota, lying and being within the counties of Mellette and Washabaugh, south of the White River, and being described and bounded as follows: Beginning at a point on the third guide

meridian west where the township line between townships thirty-nine and forty intersects the same, thence north along said guide meridian to the middle of the channel of White River, thence west along the middle of the main channel of White River to the point of intersection with the line dividing the Rosebud and the Pine Ridge Indian reservations, thence south along the boundary line between said reservations to the township line separating townships thirty-nine and forty, thence east along said township line to the place of beginning, except such portions thereof as have been or may be hereafter allotted to Indians or otherwise reserved, and except lands classified as timber lands: *Provided*, That any Indians to whom allotments have been made on the tract to be ceded may, in case they elect to do so before said lands are offered for sale, relinquish same and select allotments in lieu thereof on the diminished reservation: *And provided further*, That the Secretary of the Interior may reserve such lands as he may deem necessary for agency, school, and religious purposes, to remain reserved as long as needed and as long as agency, school, or religious institutions are maintained thereon for the benefit of said Indians: *And provided further*, That the Secretary of the Interior is hereby authorized and directed to issue a patent in fee simple to the duly authorized missionary board, or other authority, of any religious organization heretofore engaged in mission or school work on said reservation for such lands thereon (not included in any town site hereinafter provided for) as have heretofore been set apart to such organization for mission or school purposes.

"Sec. 2. That the lands shall be disposed of under the general provisions of the homestead and town-site laws of the United States, and shall be

opened to settlement and entry by proclamation of the President, which proclamation shall prescribe the manner in which the lands may be settled upon, occupied, and entered by persons entitled to make entry thereof, and no person shall be permitted to settle upon, occupy, or enter any of said lands except as prescribed in such proclamation: *Provided*, That prior to said proclamation the allotments within the portion of the said Rosebud Reservation to be disposed of as prescribed herein shall have been completed: *Provided further*, That the rights of honorably discharged Union soldiers and sailors of the late civil and Spanish wars or Philippine insurrection as defined and described in sections twenty-three hundred and four and twenty-three hundred and five of the Revised Statutes as amended by the act of March first, nineteen hundred and one, shall not be abridged.

"Sec. 3. That before any of the land is disposed of, as hereinafter provided, and before the State of South Dakota shall be permitted to select or locate any lands to which it may be entitled by reason of the loss of sections sixteen or thirty-six, or any portions thereof, by reason of allotments thereof to any Indian or Indians, the Secretary of the Interior is authorized to reserve from said lands such tracts for town-site purposes as in his opinion may be required for the future public interests, and he may cause same to be surveyed into lots and blocks and disposed of under such regulations as he may prescribe; and he is hereby authorized to set apart and reserve for school, part, and other public purposes not more than ten acres in any town-site, and patents shall be issued for the lands so set apart and reserved for school, park, and other public purposes to the municipality legally charged with the care and custody of lands

donated for such purposes. The purchase price of all town lots sold in town-sites, as hereinafter provided, shall be paid at such time and in such installments as the Secretary of the Interior may direct, and he shall cause not more than twenty per centum of the net proceeds arising from such sales to be set apart and expended under his direction in the construction of schoolhouses or other public buildings or in improvements within the town-sites in which such lots are located. The net proceeds derived from the sale of such lots and lands within the town-sites as aforesaid, less the amount set aside to aid in the construction of schoolhouses or other public buildings or improvements, shall be credited to the Indians, as hereinafter provided.

"Sec. 4. That the price of said lands entered as homesteads under the provisions of this act shall be fixed by appraisalment, as herein provided. The President shall appoint a commission to consist of three persons to classify, appraise, and value all of said lands that shall not have been allotted in severalty to said Indians, or reserved by the Secretary of the Interior or otherwise disposed of, and excepting sections sixteen and thirty-six or other lands which may be selected in lieu thereof by the State of South Dakota, in each of said townships, said commission to be constituted as follows: One resident citizen of the State of South Dakota, one representative of the Interior Department, and one person holding tribal relations with said tribe of Indians. That within twenty days after their appointment the said commissioners shall meet and organize by the election of one of their number as chairman. The said commissioners shall then proceed to personally inspect, classify, and appraise, in one hundred and sixty acre tracts each, all of the remaining unallotted lands embraced within

that portion of the reservation described in section one of this act. In making such classification and appraisalment said lands shall be divided into the following classes: First, agricultural land of the first class; second, agricultural land of the second class; third, grazing land; fourth, timber land; fifth, mineral land, if any, but the mineral and timber lands shall not be appraised: *Provided*, That timber lands may be classified without regard to acreage: *And provided further*, That all lands classified as timber lands shall be reserved for the use of the Rosebud Indians. That said commissioners shall be paid a salary of not to exceed ten dollars per day each while actually employed in the inspection, classification, and appraisalment of said lands, and necessary expenses exclusive of subsistence to be approved by the Secretary of the Interior, such inspection, classification, and appraisalment to be completed within six months from the date of organization of said commission.

"Sec. 5. That said commission shall be governed by regulations prescribed by the Secretary of the Interior; and after the completion of the classification and appraisalment of all of said lands the same shall be subject to the approval of the Secretary of the Interior.

"Sec. 6. That the price of said lands disposed of under the homestead laws shall be paid in accordance with rules and regulations to be prescribed by the Secretary of the Interior upon the following terms: One-fifth of the purchase price to be paid in cash at the time of entry and the balance in five equal annual installments, to be paid in two, three, four, five, and six years, respectively, from and after the date of entry. In case any entryman fails to make the annual payments, or any of them, when due, all rights in and to the land covered by his entry shall cease, and any payments theretofore

made shall be forfeited and the entry canceled, and the lands shall be again subject to entry under the provisions of the homestead law at the appraised price thereof: *And provided*, That nothing in this act shall prevent homestead settlers from commuting their entries under section twenty-three hundred and one, Revised Statutes, by paying for the land entered the appraised price, receiving credit for payments previously made. In addition to the price to be paid for the land, the entryman shall pay the same fees and commissions at the time of commutation or final entry as now provided by law where the price of land is one dollar and twenty-five cents per acre, and when the entryman shall have complied with all the requirements and terms of the homestead laws as to settlement and residence and shall have made all the required payments aforesaid he shall be entitled to a patent for the lands entered: *And provided further*, That all lands remaining undisposed of at the expiration of four years from the opening of said lands to entry may, in the discretion of the Secretary of the Interior, be reappraised in the manner provided for in this act.

"Sec. 7. That from the proceeds arising from the sale and disposition of the lands aforesaid, exclusive of the customary fees and commissions, there shall be deposited in the Treasury of the United States, to the credit of the Indians belonging and having tribal rights on the said reservation, the sums to which the said tribe may be entitled, which shall draw interest at three per centum per annum; that the moneys derived from the sale of said lands and deposited in the Treasury of the United States to the credit of said Indians shall be at all times subject to appropriation by Congress for their education, support, and civilization.

"Sec. 8. That sections sixteen and thirty-six of the land in each township within the tract described in section one of this act shall not be subject to entry, but shall be reserved for the use of the common schools and paid for by the United States at two dollars and fifty cents per acre, and the same are hereby granted to the State of South Dakota for such purpose, and in case any of said sections, or parts thereof, are lost to said State by reason of allotments thereof to any Indian or Indians, or otherwise, the governor of said State, with the approval of the Secretary of the Interior, is hereby authorized, within the area described in section one of this act, to locate other lands not otherwise appropriated, which shall be paid for by the United States as herein provided, in quantity equal to the loss, and such selections shall be made prior to the opening of such lands to settlement: *Provided*, That in any event not more than two sections shall be granted to the State in any one township, and lands must be selected in lieu of sections sixteen or thirty-six, or both, or any part thereof, within the township in which the loss occurs, except in any township where there may not be two sections of unallotted lands, in which event whatever is required to make two sections may be selected in any adjoining township.

"Sec. 9. That there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of not more than one hundred and twenty-five thousand dollars, or so much thereof as may be necessary, to pay for the lands granted to the State of South Dakota, as provided in section eight of this act. And there is hereby appropriated the further sum of thirty-five thousand dollars, or so much thereof as may be necessary, for the purpose of making the appraisal and classification provided for herein: *Pro-*

vided, That the latter appropriation, or any further appropriation hereafter made for the purpose of carrying out the provisions of this act, shall be reimbursed to the United States from the proceeds received from the sale of the lands described herein or from any money in the Treasury belonging to said Indian tribe.

"Sec. 10. That the lands allotted, those retained or reserved, and the surplus land sold, set aside for town-site purposes, granted to the State of South Dakota, or otherwise disposed of, shall be subject for a period of twenty-five years to all the laws of the United States prohibiting the introduction of intoxicants into the Indian country.

"Sec. 11. That nothing in this act contained shall in any manner bind the United States to purchase any portion of the land herein described, except sections sixteen and thirty-six, or the equivalent in each township, or to dispose of said land except as provided herein, or to guarantee to find purchasers for said lands or any portion thereof, it being the intention of this act that the United States shall act as trustee for said Indians to dispose of the said lands, and to expend and pay over the proceeds received from the sale thereof only as received and as herein provided: *Provided*, That nothing in this act shall be construed to deprive the said Indians of the Rosebud Indian Reservation of any benefits to which they are entitled under existing treaties or agreements not inconsistent with the provisions of this act."

And the House agree to the same.

Amendment of title: That the senate recede from its disagreement to the amendment of the House; and the Senate agree to the same.

Chas. H. Burke,
P. P. Campbell,
Jno. H. Stephens,
Managers on the part of the House.

Robert J. Gamble,
Moses E. Clapp,
W. E. Purcell,
Managers on the part of the Senate.

STATEMENT.

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 183) authorizing the sale and disposition of a portion of the surplus and unallotted lands in the Rosebud Indian Reservation in the State of South Dakota, and making appropriation and provision to carry the same into effect, submit the following written statement in explanation of the effect of the action agreed upon and recommended in the accompanying report as to said amendment:

The amendment agreed upon in conference, with two exceptions, is with slight pro forma changes the amendment inserted by the House as a substitute for the Senate bill.

The following changes in the House amendment have been made in conference. (The reference to page and line in each case refers to the page and line of the amendment.)

Page 1, line 6, the word "on" is changed to "at"; in line 7 the word "west" is inserted after "meridian;" in line 8 the word "crosses" is changed to "intersects" and the word "then" to "thence;" in line 11 the word "on"

is stricken out and the words "of intersection with the" inserted in lieu thereof.

Page 2, line 3, after the word "Indians," the following words are inserted, "or otherwise reserved, and except lands classified as timber lands;" in line 5 the word "desire" is changed to "elect;" in line 18 the word "herein" is changed to "hereinafter."

In section 2 the following words are stricken out: "That all applications for registration must show the applicant's name, post-office address, age, height, and weight, and be sworn to by him before any judge or clerk of a court of record of the county where such applicant resides, and."

Page 4, line 14, the word "in" is changed to "within;" in section 4, lines 23 and 24, the words "of the United States" are stricken out.

Page 5, in lines 19 and 20, the word "land" is changed to "lands," and in line 21 the word "all" is changed to "any;" in line 22 the words "shall not be disposed of but" are stricken out.

Page 6, line 1, a comma is inserted after "inspection," and the word "and" is stricken out, and after the word "classification" the words "and appraisalment" are inserted; in line 3 the same changes are made in phraseology; in section 6, line 12, the word "the" is stricken out.

Page 9, section 9, line 3, the word "thirty-five" is changed to "twenty-five," and in line 8 the word "twenty-five" is changed to "thirty-five." These changes are to correct errors that were made by inadvertence on the floor of the House. In section 10, line 17, after the word "sold," the words "set aside for town-site purposes, granted to the State of South Dakota" are inserted. This makes the section read as it was reported

from the committee and to conform to an amendment inserted by the Senate in H. R. 12438.

The House amendment of the title of the bill is agreed to.

Chas. H. Burke,
P. P. Campbell,
Jno. H. Stephens,
Managers on the part of the House.

[45 Cong. Rec. 6415-6416 (1910)]

ROSEBUD INDIAN RESERVATION, S. DAK.

Mr. BURKE of South Dakota. Mr. Speaker, I call up the conference report on the bill (S. 183) authorizing the sale and disposition of a portion of the surplus and unallotted lands of the Rosebud Indian Reservation, in the State of South Dakota, and making appropriations to carry the same into effect, and I ask unanimous consent that the statement be read in lieu of the report.

Mr. FITZGERALD. Pending that request, I wish to suggest to the gentleman that this ought to go over for the present. On looking through the report hastily I find that there has been eliminated a provision of some importance.

Mr. BURKE of South Dakota. That is the only elimination.

Mr. FITZGERALD. This may give rise to considerable controversy. I think the gentleman had better let it go over. I am trying to suggest a method that will expedite the matter. The gentleman from Illinois [Mr. Sabath] proposed an amendment that was agreed to by

a very large vote, and that has been eliminated in conference.

Mr. BURKE of South Dakota. The report was filed under the rule and printed in the Record.

Mr. FITZGERALD. If the gentleman calls up the report now, we will not expedite the disposition of it. It will require a quorum, and that the report be read, as well as the statement.

Mr. MANN. The gentleman from Minnesota, chairman of the Appropriations Committee, who has the sundry civil bill in charge, is not present.

Mr. FITZGERALD. But the gentleman from Ohio [Mr. Keifer] is ready to go on.

Mr. MANN. I would suggest whether or not it would not be practicable to rise later in the day from the consideration of the sundry civil bill and dispose of these matters.

Mr. BURKE of South Dakota. Mr. Speaker, I am perfectly willing. I am not responsible because there is not a quorum present.

Mr. FITZGERALD. I am not, either; but I am suggesting that the gentleman may be able to get an agreement to take it up later in the day. If it is called up now, there will be a controversy over it.

Mr. BURKE of South Dakota. I ask unanimous consent that the committee rise at 3 o'clock.

Mr. MANN. The gentleman can not do that.

Mr. LIVINGSTON. I suggest that we take it up at the end of the session at 5 o'clock in the afternoon.

Mr. FITZGERALD. The gentleman can dispose of these reports at the end of the day.

Mr. BURKE of South Dakota. There will not be a quorum at the end of the day, and we will be in the same position that we are now.

Mr. MANN. I think there will be no point made of no quorum at that time. The gentleman from Illinois [Mr. Sabath] is not here and probably did not know that the conference report was to be taken up.

Mr. FITZGERALD. As to Members being absent, the House meets at 11 o'clock one day and 12 o'clock another day, and there is no certainty about it.

Mr. BURKE of South Dakota. Mr. Speaker, would it be in order to ask that the consideration of the two reports on the two bills be made a special order at 3 o'clock to-day?

Mr. FITZGERALD. That time might come right in the middle of somebody's speech. I would not object if at some time during the day the gentleman moves that the committee rise.

Mr. BURKE of South Dakota. Mr. Speaker, I do not want to take anybody that may be speaking off the floor. The gentleman from Ohio [Mr. Keifer] assures me that some time about the middle of the afternoon he will move that the committee rise for the purpose of considering these reports, and if that is the understanding I will not press the consideration of this conference report at present.

[45 Cong. Rec. 6436-6437 (1910)]

ROSEBUD INDIAN RESERVATION, S. DAK.

Mr. BURKE of South Dakota. Mr. Speaker, I call up the conference report on the bill (S. 183) authorizing the sale and disposition of the surplus and unallotted lands in the Rosebud Indian Reservation, in the State of South Dakota, and making appropriation and provi-

sion to carry the same into effect, and ask unanimous consent that the statement may be read in lieu of the report.

The SPEAKER. The gentleman from South Dakota calls up a conference report and asks unanimous consent that the statement be read in lieu of the report. Is there object?

There was no objection.

The Clerk read the statement.

[For statement and report see Record of May 16, 1910.]

Mr. BURKE of South Dakota. Mr. Speaker, I think it will appear from the reading of the report and statement that substantially the only change in the bill from the way it passed the House, except as to correcting some errors and changes of words where a word was inadvertently used, is in the amendment which was incorporated in the bill on the floor of the House in Committee on the Whole, offered by the gentleman from Illinois [Mr. Sabath]. I will say very briefly that evidently the gentleman who offered the amendment did not sufficiently consider what he was endeavoring to do. Under the bill as reported now by the conferees, if it becomes a law, it will mean that we have enacted the same law that has been in operation for a number of years upon the subject of disposing of Indian lands. It provides that the lands shall be disposed of under regulations to be provided by the President in a proclamation, and it gives the President and the Interior Department the greatest latitude in making regulations. They can make the places of registration at such points as they desire. They are not limited at all. Under that law regulations heretofore have been promulgated, and among other things is regulation No. 2, which provides that all persons qualified to make homestead entry,

who desire to acquire title to any of these lands, must go in person to some one of the places designated in the proclamation, and I may say in passing that usually these places designated have been places at which there is located a United States land office and in the locality where the lands are located that are to be disposed of. Regulation No. 3 provides that when the applicant for registration visits one of the registration points between the dates named he must swear to his application for registration before a notary having a certificate of authority, and so forth, and I may say also that it has been the practice of the department to require of notaries public that they shall make an application to the Secretary of the Interior and shall obtain a certificate of authority before they are recognized in connection with registering applicants.

The notaries are then required to form themselves into an organization, elect a president and a treasurer and other officers. They are required to have their office at one place. They are required to keep the office open for business twenty-four hours in the day, and they divide into shifts of three each, each working eight hours. When a person enters the place of registration the first thing he encounters is the cashier's desk, where he pays 25 cents, and there he receives his blank, and then goes to any one of the several notaries who are there assembled and is sworn to the affidavit. These blanks are not given out at all except as they are given to each individual as he passes in and pays the fee. The result of that has been that it enables the department to prevent irresponsible persons from taking these applications and using their notarial seal, as they frequently have done, improperly. It prevents them from going to the train and importuning people who may arrive or, perhaps, going on the train. The business has been

conducted orderly, and it has worked very satisfactorily; at least that is the judgment of those who have had charge of openings, and that the system can not be improved upon. I want to say for the information of the gentleman from Illinois, whom I presume will follow me, that all his amendments does is this:

That all applications for registration must show the applicant's name, post-office address, age, height, and weight, and be sworn to by him or any judge or clerk of a court of record of the county where such applicant resides, and—

There is not a word in his amendment as to what shall be done with the application, that it shall be transmitted by mail, but on the contrary it simply supersedes a regulation that has heretofore been in effect that these applications shall be sworn to before a notary public, who is commissioned by the Interior Department. I presume, if the amendment was to remain in the law, that it would amount to no more than that people who go out to register would take with them their application, sworn to before the clerk of the court or the judge of the county in which they reside.

Mr. FITZGERALD. Would it not be very easy to perfect the amendment so as to provide for that just as the rest of the bill was perfected?

Mr. BURKE of South Dakota. If I were to go into the merits of the matter, I certainly should have greater reasons why this amendment should not remain in the bill than under the circumstances. I hope the conference report will be adopted. How much time does the gentleman from Illinois [Mr. Sabath] desire?

Mr. SABATH. Ten or fifteen minutes.

Mr. BURKE of South Dakota. I yield ten minutes to the gentleman from Illinois [Mr. Sabath].

Mr. SABATH. Mr. Speaker, in the first place I desire to state that I appreciate the opportunity to be present when this conference report is being considered. It was not due to the fact that I did not know that the House was to meet at 11 o'clock that I was not present this morning, but it was due to the fact that I was obliged to be at a meeting of the committee of which I am a member, and for that reason I was not here in due time. Mr. Speaker, it is not my intention to impose upon the membership of this House. Were it not for the fact that I am greatly interested in this bill and in this amendment, I would not ask even for the short time of ten minutes. At the time I introduced this amendment I was under the impression, if the amendment would be adopted, that it would give, and I believe now it would give, every citizen an opportunity to register for this land. It is all true what the gentleman from South Dakota states about the arrangements that are being made; but if my amendment would have prevailed, and would prevail, all this could be eliminated and the people could register from their home districts and mail the registration to the registers at the place of opening, and for that reason it would not cost, and it will not cost, the Government any more than it does under the present faulty system under which the drawings are had.

I stated the last time that a great many people are precluded from registering for these homesteads, and I must repeat it again. It is mighty hard for a man, especially a poor man, to risk from \$50 to \$100, or perhaps even more, and to take great chances of going down there and registering, especially when he has but one chance in about 100 or 150 against him. Now, this Government should not lend itself to advocate and foster gambling. I believe that if my amendment will

prevail, and if the House will vote down the conference report, every man will have a chance and an equal opportunity without taking the great risk of spending a week or ten days in going and remaining there and spending large sums of money merely for the purpose of registering for a chance in the drawing.

Furthermore, I believe that the lands will be taken up and cultivated in a much shorter space of time if my amendment will prevail, because those people are not of a kind that would register, and if successful in drawing a homestead, then relinquish and sell out their interests, as is frequently done under the present system. They will be more than pleased to go there and work the land, thereby settling the district within a short space of time and benefit the country on the whole.

Personally, I am still in the opinion that no one else but the railroads and the speculators benefit under the present system. No one else can possibly object, unless it be the gentlemen who are interested in that locality, the merchants and hotel proprietors, perhaps, who would derive great profits from dealings with these people who go down there in order to register. I am of the opinion that it will not require \$150,000 more under this provision, as the gentleman has stated, nor \$150 more than it costs now, because all that is required is to mail the registry or the application, and the register there places the number on the application and files it with the rest of them. That is all that is required. Then the drawing is had, and it should not make such a great difference whether we have 50,000 applicants or whether we have 150,000 or 250,000 applicants.

Mr. HITCHCOCK. Will the gentleman permit an interruption?

Mr. SABATH. With pleasure.

Mr. HITCHCOCK. I think my friend from Illinois is mistaken when he says the West has no other interest in the matter than that which he recites. The West is interested in having these lands taken up by practical farmers, and under the present practice it is a rule that only those who know something about farming visit the places and participate in the drawing.

But the gentleman can see, if his amendment prevails, chances will be taken by a great many people throughout the East who know nothing whatever about farming. Now, when such a person chances to make a lucky drawing he would have very little value to us in the West, nor could he succeed for himself. I am speaking of a man who knows nothing about farming. So the West has a slightly different interest than the one the gentleman mentions. We are interested in having practical farmers take these lands. They are the ones who take the trouble, as a rule, to visit these drawings and take part in them.

Mr. SABATH. In answer to the gentleman I will state that it is my opinion that the people who go to the trouble to register are men who do take a great interest in farming, and I will say that we have as many farmers in the State of Illinois as the gentleman may have in his own State. And I may say that some of the best farmers that are now in the State of Nebraska came originally from the State of Illinois and from the adjoining States. [Applause.] And I know that a great many people in my own district are practical farmers, but they never had the opportunity to purchase a farm or settle on a farm, and they are more than anxious and more than pleased to have an opportunity of this kind to secure farms, and I assure the gentleman that if they do settle there he will find that they are practical farmers and practical agriculturists.

Mr. HITCHCOCK. I think the gentleman is right in saying that a large percentage of those who are interested in securing farms in the West come from Illinois. That has been the experience in the past. It does not require anything like \$100 or \$150 of expense for a man to visit either Nebraska or South Dakota. The excursion rates which are put into effect at such times are very low, and I should say that \$25 or \$30 would come nearer to covering the expenses from a reasonable distance to this drawing.

Mr. SABATH. From a reasonable distance it may not cost more than \$25 or \$30 for railroad fare. But the gentleman must take into consideration that a man is obliged to leave his work, thus losing four or five and sometimes ten days' pay. He is obliged to live there about the time of such drawings. The gentleman knows, I presume, from experience, especially now when the cost of living is so high, that at these places the living is still higher, and it costs much more there than it would at home. And I believe a man would find it extremely difficult to get along on less than \$100, traveling even from my own city of Chicago and practicing rigid economy.

From a fair estimate I believe that it would cost each and every applicant who would be obliged to go there about \$100. But if it should cost \$50, why should we impose that amount on a man of that kind? It is the poor man who will go there; the rich man will not go down there to gain a homestead. He, as a rule, has already 160 acres, or property that is worth the equivalent in value of a homestead, and he is therefore precluded from registering and participating in the drawings. Therefore, I contend, Mr. Speaker, that if the House desires to adhere to the letter and spirit of the homestead laws, which primarily are intended to help

the citizen with little financial means, but possessed of an honest purpose to settle and till the land which is allotted under these laws, it is in duty bound to pass such amendments or laws as will give a poor man an opportunity to avail himself of the provisions of the homestead laws at the lowest possible expense. My amendment is in accord with the real intent of these laws, and if it will prevail, as I earnestly hope it will, the poor man will be given an opportunity to participate in the drawings at a minimum expense to himself.

Mr. BURKE of South Dakota. I move the adoption of the report.

The question was taken, and the Speaker announced that the ayes seemed to have it.

Mr. SABATH. Division!

The House divided; and there were—ayes 40, noes 14. So the conference report was agreed to.

[45 Cong. Rec. 6496 (1910)]

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills, and they were thereupon signed by the President pro tempore:

S. 183. An act to authorize the sale and disposition of a portion of the surplus and unallotted lands in Mellette and Washabaugh counties, in the Rosebud Indian Reservation in the State of South Dakota, and making appropriation and provisions to carry the same into effect;

[45 Cong. Rec. 6517 (1910)]

ENROLLED BILLS SIGNED.

* * *

S. 183. An act to authorize the sale and disposition of a portion of the surplus and unallotted lands in Mellette and Washabaugh counties, in the Rosebud Indian Reservation, in the State of South Dakota, and making appropriation and provision to carry the same into effect.

[45 Cong. Rec. 7128-7129 (1910)]

PRESIDENTIAL APPROVALS.

* * *

On May 30, 1910:

S. 183. An act to authorize the sale and disposition of a portion of the surplus and unallotted lands in Mellette and Washabaugh counties, in the Rosebud Indian Reservation, in the State of South Dakota, and making appropriation and provision to carry the same into effect.

[#35B]

(Senate report to accompany S. 183)

[S. Rep. No. 68, 61st Cong. 2d Sess. I-5 (1910)]

Report No. 68.

SALE OF PORTION OF SURPLUS LANDS ON
ROSEBUD RESERVATION.

January 17, 1910. Ordered to be printed.

Mr. Gamble, from the Committee on Indian Affairs,
submitted the following

REPORT.

[To accompany S. 183.]

The Committee on Indian Affairs, to whom was referred the bill (S. 183) to authorize the sale and disposition of a portion of the unallotted lands in the Rosebud Indian Reservation in the State of South Dakota, and making appropriation and provision to carry the same into effect, having had the same under consideration, beg leave to report that said bill do pass with the following amendments:

On page 1, strike out lines 8, 9, 10, 11, and 12; and on page 2, strike out line 1 and down to and including the word "meridian" in line 12, and insert in lieu thereof the following:

On the third guide meridian, west, where the township line between townships thirty-nine and forty intersects the same, thence running west on said township line to a point where the same intersects

the boundary line between the Rosebud and Pine Ridge Indian reservations; thence north on the boundary line between said reservations to a point where the same intersects the center of the main channel of the White River, thence in an easterly direction along the center of the main channel of said White River to a point where the third guide meridian, west, intersects the same, thence south on said third guide meridian, west,

On page 4, line 19, strike the words "Indian Bureau" and insert in lieu thereof the words "Interior Department."

On page 4, line 24, after the word "empowered," insert the words "to select such clerks and assistants at such compensation."

On page 5, line 2, strike out the word "each" where the same last appears in said line and insert in lieu thereof the words "that portion of said."

On page 5, line 8, after the word "mineral," insert the words "and timber."

On page 5, line 8, after the word "appraised," insert the following:

Provided, That timber lands shall be classified without regard to acreage: *And provided further*, That all lands classified as timber lands shall be reserved for the use of the Rosebud Indians.

On page 5, line 11, after the word "expenses," insert the words "exclusive of subsistence."

On page 7, line 2, after the word "prescribe," insert the words "and patents therefor shall be issued to the purchasers."

On page 7, line 9, after the word "Statutes," insert a semicolon and the following:

And he is hereby authorized to set apart and reserve for school, park, and other public purposes not

more than ten acres in any town site, and to issue patents for such reserved tracts to the municipality legally charged with the care and custody of lands donated for such purposes. And the Secretary of the Interior shall cause not more than twenty per centum of the net proceeds arising from such sales to be set apart and expended under his direction in aiding the construction of schoolhouses or other buildings or improvements in the town sites in which such lots are located.

On page 7, line 10, after the word "lands," insert the words "less the amount set aside to aid in the construction of schoolhouses or other buildings or improvements."

On page 8, line 2, strike out the words "one dollar and twenty-five" and insert in lieu thereof "two dollars and fifty."

On page 8, line 9, strike out the word "occupied" and insert in lieu thereof the words "otherwise appropriated."

On page 8, line 13, after the word "settlement," strike out the period and insert in lieu thereof a colon and the following:

Provided further, That in any event nor more than two sections shall be granted to the state in any one township, and lands must be selected in lieu of sections sixteen or thirty-six, or any part thereof, within the township in which the loss occurs.

On page 8, line 16, strike out the word "sixty-five" and insert in lieu thereof the words "one hundred and twenty-five."

On page 8, line 20, strike out the word "twenty-five" and insert in lieu thereof the word "thirty-five."

Add the following as a new section to the bill:

Sec. 10. That the lands allotted, those retained or reserved, and the surplus lands sold, set aside for

town site purposes, or granted to the State or otherwise disposed of, shall be subject for a period of twenty-five years to all the laws of the United States prohibiting the introduction of intoxicants into the Indian country.

The present area of the Rosebud Indian Reservation aggregates about 1,800,000 acres. The lands proposed to be opened to settlement under the provisions of this bill embrace an area of about 830,000 acres. It is the understanding of your committee that practically all the allotments to adult Indians on this reservation have been made. Provision has been made under recent statutes for the allotment of all the minor children on the reservation, and this work is now in progress and it is understood that practically all such allotments have been made to those so desiring allotments within the area described in section 1 of this bill.

The reservation is yet large, and in the judgment of your committee the surplus and unallotted lands are unnecessary for the use of the Indians, and the opening of the reservation would result in a large increase in the settlement and the development of that part of the State, and would enhance to a very large extent the holdings of the Indians. Your committee regard it of the highest importance, not only to the Indians themselves but to the people of the State and the General Government, that all surplus and unallotted lands should be opened to settlement at the earliest practicable date.

The bill provides that prior to the issuance of the proclamation for the opening of the lands to settlement the Secretary of the Interior shall cause allotments to be made to all Indians and minors belonging to or holding tribal relations with the Indians upon the reservation who have not heretofore been allotted. It also provides that the Secretary of the Interior, in his discretion, may per-

mit Indians who have allotments and to receive in lieu thereof allotments anywhere within the reservation proposed to be diminished.

Sections 16 and 36 of the lands in each township are not to be disposed of, but are reserved for the use of the common schools of the State, and these lands are to be paid for by the Government in conformity with the provisions of the act admitting the State of South Dakota into the Union. The Secretary of the Interior is authorized to reserve such lands as are necessary for agency, school, and religious purposes in conformity with the practice of the Government in measures of this character.

The lands to be opened are to be inspected, appraised, and valued by a commission for that purpose appointed by the President, which appraisement is subject to the approval of the Secretary of the Interior. The lands to be opened are reserved for homesteads, and one-fifth of the price so fixed for the land is to be paid upon entry thereof, and the balance in five equal annual installments. The Secretary of the Interior is also authorized to reserve from said lands such tracts for town-site purposes as in his opinion may be required for the future public interests. The Secretary of the Interior is further authorized to set apart and reserve for school, park, and other public purposes not more than 10 acres in any one town site. He is further authorized to cause not more than 20 per cent of the net proceeds received from the sale of the town sites to be set apart and expended under his direction in aiding in the construction of schoolhouses or other buildings or improvements in the town sites. Considering the fact that the Indian allotments are relieved from taxation for a period of twenty-five years and the Indians are to receive like advantages with the whites in connection with the above, it is thought by your committee that such a provision is wise, equitable, and just not only to the Indians but to the prospective settlers.

The moneys realized from the sales of the town sites, less the amount set apart to aid in the construction of schoolhouses or other buildings or improvements, are to be applied to the benefit of the tribe. The moneys derived from the sale of the lands as well as the town sites, with the exception above referred to, are to be deposited in the Treasury of the United States to the credit of the tribe, and the same shall draw interest at the rate of 3 per cent per annum, and these moneys shall be expended for the benefit of the tribe under the direction of the Secretary of the Interior.

It appears there is a very limited amount of timber upon that part of the reservation proposed to be opened, and the Indians were most solicitous that they should be protected and the timber reserved for their use. It is thought by your committee that this request by the Indians is just and reasonable and that the timber lands should be classified without regard to acreage and that they should be reserved for the use of the Indians. Under such conditions the timber lands could be preserved and protected under the authority of the Interior Department, and such reasonable use could be made of them for the benefit of the Indians as would be wise and just and conserve their best interests.

Upon the recommendation of the department, an additional section has been added to the bill which prohibits the introduction of intoxicating liquors upon the lands to be opened for a specified period. It is felt by your committee that such a prohibition would serve as a protection, especially to the Indians, and their interests would be highly conserved if the use of intoxicants were prohibited. This is a matter of the highest concern, not only to the Indians themselves but to the General Government and to the people of the State, that the Indians should be safeguarded as much as possible from the evils resulting therefrom.

Although Congress has full power to enact legislation of this character without the consent of the Indians, it was felt the Indians should be fully advised as to the provisions of the pending measure and their views should be asked in regard thereto. The bill in question was submitted to the Indians of the reservation by a competent and experienced Indian inspector and the wishes of the Indians were sought to be met in a fair and just spirit. A number of the amendments proposed are in line with the suggestions and requests of the Indians, especially those as to the price to be paid for the school lands and for the reservation of the timber lands within the area proposed to be opened for the use and benefit of the Indians. It is the understanding of your committee that the other amendments suggested are entirely satisfactory to the members of the Indian tribe.

The communication of the Secretary of the Interior, reporting upon this bill, is herewith submitted and made a part of this report.

Department of the Interior,
Washington, January 13, 1910.

Sir: The department has received, by your reference, for recommendation and report a copy of Senate bill 183, authorizing the sale and disposition of a portion of the surplus unallotted lands in the Rosebud Indian Reservation, in the State of South Dakota.

Inspector McLaughlin submitted this matter to the Indians, who, while they were opposed to opening all the lands described in the bill, indicated a disposition to acquiesce in the opening of a part of the lands of their reservation lying north of the tenth standard parallel. In connection with this, however, the Indians insisted that

they should be paid at the rate of \$2.50 per acre for the lands granted to the State of South Dakota, and expressed a strong desire that the timber on the part of the reservation to be opened be reserved for the Indians. It is believed these requests of the Indians are just and reasonable and should be complied with.

It is recommended that the description of the lands to be opened be changed to read as follows:

"Commencing at a point on the western boundary of the Rosebud Indian Reservation, in the State of South Dakota, where it intersects the township line between townships 39 and 40 north, running thence north along said boundary line to a point in the center of the main channel of the White River; thence easterly along the center of the main channel of said White River to a point where the range line between ranges 24 and 25, west of the sixth principal meridian, intersects the same; thence south on said range line between ranges 24 and 25 west, to a point where it is intersected by the township line between townships 39 and 40 north; thence west along said township line between townships 39 and 40 north to the place of beginning."

The words "Indian Bureau," in line 19, on page 4, should be stricken out and the words "Interior Department" inserted in lieu thereof. There should be inserted after the word "empowered," in line 24, of page 4, the words "to select such clerks and assistants at such compensation." The word "each," in line 2, page 5, should be stricken out and the words "that portion of said" be inserted.

If the timber land could be appraised only in 160-acre tracts, it would, perhaps, be found necessary to include in such classification much valuable agricultural land in order to embrace all the timber. To meet this condition it is suggested that there be inserted after the word "min-

eral" in line 8, on page 5, the words "and timber;" and after the word "appraised," in said line 8, there be inserted the following: "*Provided*, That timber lands shall be classified without regard to acreage: *And provided further*, That all lands classified as timber lands shall be reserved for the use of the Rosebud Indians."

It is believed that a compensation of \$10 per day and the necessary expenses is ample, and for the purpose of certainty in this regard, it is suggested that there be inserted after the word "expenses" in line 11, page 5, the words "exclusive of subsistence."

It is entirely just and reasonable that the Indians should be paid for the lands granted to the State of South Dakota at the rate of \$2.50 per acre, and it is therefore suggested that the bill be amended by striking out the words "one dollar and twenty-five cents" in line 2, on page 8, and inserting in lieu thereof the words "two dollars and fifty cents." Should the bill be amended in this respect it would be necessary to increase the appropriation provided for in section 8 for lands granted to the State, by striking out "sixty-five" in line 16, on page 8, and inserting in lieu thereof "one hundred and twenty-five."

It is found that the work of allotting, classifying, and appraising Indian lands costs, approximately, \$1,000 a township. Since there are about 36 townships within that part of the Rosebud Reservation proposed to be opened by the bill, the department believes that the sum of \$35,000 will be needed for this work, and therefore suggests that "twenty-five" in line 20, on page 8, be stricken out and "thirty-five" be inserted in lieu thereof.

There are two other matters which the department deems it appropriate to bring to the attention of your committee in connection with this bill. It has been suggested it would be good policy to set aside within town

sites established on Indian reservations lands for school, park, and other public purposes, and to apply not more than 20 per cent of the net proceeds from sales of lots in such town sites to aid the construction of schoolhouses and other public buildings in such towns. Provisions to accomplish this have been inserted in H.R. 12440, a bill to authorize the sale and disposition of the land involved in the bill here under consideration. A bill has also been introduced in the House of Representatives (H.R. 6740) making like provisions applicable to all town sites established on Indian reservations and also on the public lands.

If your committee deems it advisable to provide for these matters in this bill, it could be done by inserting after the word "statutes" in line 9, page 7, a semicolon, and the following:

"And he is hereby authorized to set apart and reserve for school, park, and other public purposes not more than ten acres in any town site, and to issue patents for such reserved tracts to the municipality legally charged with the care and custody of lands donated for such purposes. And the Secretary of the Interior shall cause not more than twenty per centum of the net proceeds arising from such sales to be set apart and expended under his direction in aiding the construction of schoolhouses or other buildings or improvements in the town sites in which such lots are located."

If this be done, there should be inserted after the word "lands," in line 10, on page 7, the words "less the amount set aside to aid in the construction of schoolhouses or other buildings or improvements."

It has been suggested that there should be inserted in this and like bills a clause to read as follows:

That the lands allotted; those retained or reserved, and the surplus lands sold, set aside for town-site purposes, or granted to the State or otherwise disposed of, shall

be subject for a period of twenty-five years to all the laws of the United States prohibiting the introduction of intoxicants into the Indian country."

It has been found that like provisions inserted in other laws have proved of benefit to the Indians and of great assistance to this department in enforcing the laws prohibiting the sale of intoxicants to Indians. The Supreme Court in the case of *Dick v. United States* (208 U.S. 340) has upheld the validity of such a law.

This department recommends the adoption of the changes herein suggested.

Very respectfully,

R.A. Ballinger,
Secretary

Hon. Moses E. Clapp,
Chairman Committee on Indian Affairs,
United States Senate.

[#35C]

(House of Representatives report to accompany S. 183)

[H.R. Rep. No. 429, 61st Cong. 2d Sess. 1-5 (1910)]

Report No. 429

DISPOSITION OF CERTAIN LANDS IN
ROSEBUD RESERVATION, S. DAK.

February 10, 1910. — Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. Burke, of South Dakota, from the Committee on Indian Affairs, submitted the following

REPORT.

[To accompany S. 183.]

The Committee on Indian Affairs, to whom was referred Senate bill 183, submit the following report:

This bill is similar to H. R. 12437 reported by this committee on January 27, 1910, and affects the same land. The committee recommend amending the same to conform to the House bill by striking out all after the enacting clause and inserting the provisions of the House bill. Also amend the title to conform to the title of H. R. 12437, so as to read as follows:

To authorize the sale and disposition of a portion of the surplus and unallotted lands in Mellette and Washabaugh counties in the Rosebud Indian Reser-

vation in the State of South Dakota, and making appropriation and provision to carry the same into effect.

The report on H. R. 12437 is as follows:

[House Report No. 332, Sixty-first Congress, second session.]

The Committee on Indian Affairs, to whom was referred House bill 12437, submit the following report:

The purpose of this bill is to authorize the sale and disposition of that portion of the surplus and unallotted lands in the Rosebud Reservation in South Dakota included in the counties of Mellette and Washabaugh. The committee recommends the passage of the bill, with the following amendments:

Page 3, line 8, strike out the words "Pine Ridge," and insert in lieu thereof the word "Rosebud."

Page 4, line 6, after the word "other," insert the word "public," so that the line will read, "for school, park, and other public purposes," etc.

Page 4, line 17, after the word "aforesaid," insert the following words: "less the amount set aside to aid in the construction of schoolhouses or other public buildings or improvements," so that it will read, "of such lots and lands within the town sites as aforesaid, less the amount set aside to aid in the construction of schoolhouses or other public buildings or improvements, shall be credited to the Indians, as hereinafter provided."

Page 5, line 1, after the word "thirty-six," insert the words "or other lands which may be selected in lieu thereof by the State of South Dakota."

Page 5, line 17, after the word "mineral," insert the words "and timber," and after the word "appraised" insert the following words: "Provided, That timber land

may be classified and appraised without regard to acreage: *And provided further*, That any lands classified as timber lands shall not be disposed of, but shall be reserved for the use of the Rosebud Indians."

Page 5, line 20, after the word "expenses," insert the words "exclusive of subsistence."

Page 6, line 15, strike out the words "reoffered for sale and," and insert in lieu thereof the words "again subject to," so that it will read, "and the lands shall be again subject to entry under the provisions," etc.

Page 7, line 21, strike out the word "three," and insert in lieu thereof the word "five."

Page 8, line 18, after the word "thirty-six," insert the words "or both."

Page 9, line 5, strike out the word "twenty-five," and insert in lieu thereof the word "thirty-five."

Page 9, lines 14 to 20, strike out all of section 10, and insert in lieu thereof:

"Sec. 10. That the lands allotted, those retained or reserved, and the surplus land sold, set aside for town-site purposes, or granted to the State, or otherwise disposed of, shall be subject for a period of twenty-five years to all the laws of the United States prohibiting the introduction of intoxicants into the Indian country."

The Rosebud Indian Reservation when set aside as a separate reservation under the Sioux act of 1889 contained something over 3,000,000 acres of land. In 1904 the unused and unallotted portion of the reservation in Gregory County, about 500,000 acres, was disposed of and the Indians received therefrom something more than \$1,500,000. In the Fifty-ninth Congress a law was enacted authorizing the sale of the unused and unallotted lands in that portion of the reservation in Tripp County, comprising about 1,000,000 acres, under a bill substantially in the same form as the bill now under considera-

tion, except that the price of the land was fixed in the law, whereas under this bill the price is to be fixed by appraisal. The proclamation for the disposition of Tripp County lands was not issued until last year, and therefore it was not subject to filing until that time. A very large part of the lands has been entered under the homestead laws, but it is not possible to state just how much will be received from the sale of the lands in Tripp County; it will, however, undoubtedly amount to \$4,000,000.

The area comprised in the present bill is about 800,000 acres and the proceeds from the sale thereof, under the terms of the bill, will probably amount to \$3,000,000. There will still be left a reservation containing about 1,000,000 acres, and as the Indians have all been allotted there is no occasion for continuing a reservation larger than it will be when Mellette County is disposed of.

The bill is carefully safeguarded and provides that Indians who have taken allotments in the area proposed to be disposed of may relinquish such allotments and be reallocated within the diminished reservation, if they so elect. There is also a provision reserving sections 16 and 36 of the lands in each township for the use of the common schools of the State of South Dakota, to be paid for by the Government at \$2.50 per acre. The granting of these lands to the State is in accordance with the provisions of the enabling act admitting South Dakota into the Union.

Provision is made to reserve lands used for agency, school, and religious purposes.

The bill provides that there shall be appointed a commission consisting of three persons, one a resident citizen of the State of South Dakota, one a person holding tribal relations with the Rosebud Indians, and the other a representative of the Interior Department, the commission to

be appointed by the President. The commission are required within six months after their appointment to examine, qualify, and appraise lands that are to be disposed of, and the appraised valuation will be the price to be paid by the settler, who is required to pay one-fifth thereof in advance and the balance in five equal annual installments. The appraisement is subject to the approval of the Secretary of the Interior.

Provision is made directing the Secretary of the Interior to reserve from said lands such tracts for town site purposes as in his opinion may be advisable, and the same shall be surveyed into lots and blocks and disposed of under regulations to be prescribed by him, and the proceeds from the sale to go to the credit of the Indians. The Secretary of the Interior is required, however, to reserve not more than 10 acres in each town site for school, park, and other public purposes, and he is authorized to withhold 20 per cent of the net proceeds from the sale of the town site, which is to be expended in aiding in the construction of schoolhouses or other public buildings in the town.

It is the opinion of the department, as expressed in a communication to this committee on H. R. 6740, that this is a wise provision and that it will probably mean that more money will be received from the sale of town lots net to the Indians than if they received all the proceeds without such provision. The proceeds derived from the sale of the lands and the town lots, except the 20 per cent as above stated, are to be deposited in the Treasury to the credit of the Rosebud Indians, with interest thereon at 3 per cent per annum, and shall be subject to appropriation for their support under article 12 of the agreement made with the Sioux Indians dated March 2, 1889.

The communication from the Secretary of the Interior on H. R. 6740, referred to above, dated December 21, 1909, relative to the provision just referred to, states:

"Regarding the provision in H. R. bill No. 6740, authorizing the expenditure, under the direction of the Secretary of the Interior, of 20 per cent of the net proceeds derived from the sale of town lots in constructing schoolhouses or other public buildings or improvements, it is evident that such a provision would result in a far more rapid growth, of a substantial nature, of the towns than would be the case if the construction of schools and public buildings were left to the municipal authorities. This provision would make available, almost immediately, funds for the erection of school buildings, and insure that such buildings would be adequate and sanitary.

"It is also evident that the value of town lots, within a town site which is assured funds for the erection of substantial and ample schools and other public buildings, would be enhanced by such an assurance, and it is believed that by properly placing these advantages before the public in conducting the sale of town lots, the net proceeds to be derived therefrom for the benefit of the Indians entitled would be equal to if not greater than would be the case if 20 per cent of the proceeds were not made available for public improvements."

While there does not appear to be any timber upon the lands affected by this bill, the committee thought it advisable to provide that in case there is any timber land it shall not be disposed of, but shall be reserved for the use of the Indians.

The amendment proposed and adopted for section 10 of the bill is in accordance with precedents and is a wise provision, as it is generally recognized that it is of the greatest importance that intoxicating liquors be kept as far as possible from the Indian, and that a provision such as this is not only for their best interests, but will be of equal benefit to the people who will settle and develop the area described in the first section of the bill.

The bill is drafted in accordance with negotiations conducted by the well-known Indian inspector, Major McLaughlin, who visited the reservation and negotiated with the Indians, and they are satisfied to have the unallotted lands described herein disposed of.

The money appropriated by the bill is all reimbursable, and immediately after the opening takes place the same will be repaid into the Treasury from proceeds from disposition of the lands.

The Secretary of the Interior in reporting upon a bill in the Senate (S. 183) substantially in the same form as this bill, reported as follows (see S. Rept. No. 68):

Department of the Interior,
Washington, January 13, 1910.

Sir: The department has received, by your reference, for recommendation and report, a copy of Senate bill 183, authorizing the sale and disposition of a portion of the surplus unallotted lands in the Rosebud Indian Reservation, in the State of South Dakota.

Inspector McLaughlin submitted this matter to the Indians, who, while they were opposed to opening all the lands described in the bill, indicated a disposition to acquiesce in the opening of a part of the lands of their reservation lying north of the tenth standard parallel. In connection with this, however, the Indians insisted that they should be paid at the rate of \$2.50 per acre for the lands granted to the State of South Dakota, and expressed a strong desire that the timber on the part of the reservation to be opened be reserved for the Indians. It is believed these requests of the Indians are just and reasonable and should be complied with.

It is recommended that the description of the lands to be opened be changed to read as follows:

"Commencing at a point on the western boundary of the Rosebud Indian Reservation, in the State of South Dakota, where it intersects the township line between townships 39 and 40 north, running thence north along said boundary line to a point in the center of the main channel of the White River; thence easterly along the center of the main channel of said White River to a point where the range line between ranges 24 and 25, west of the sixth principal meridian, intersects the same; thence south on said range line between ranges 24 and 25 west to a point where it is intersected by the township line between townships 39 and 40 north; thence west along said township line between townships 39 and 40 north to the place of beginning."

The words "Indian Bureau," in line 19, on page 4, should be stricken out and the words "Interior Department" inserted in lieu thereof. There should be inserted after the word "empowered," in line 24 of page 4, the words "to select such clerks and assistants at such compensation." The word "each," in line 2, page 5, should be stricken out and the words "that portion of said" be inserted.

If the timber land could be appraised only in 160-acre tracts, it would perhaps be found necessary to include in such classification much valuable agricultural land in order to embrace all the timber. To meet this condition it is suggested that there be inserted after the word "mineral," in line 8, on page 5, the words "and timber;" and after the word "appraised," in said line 8, there be inserted the following: "*Provided*, That timber lands shall be classified without regard to acreage: *And provided further*, That all lands classified as timber lands shall be reserved for the use of the Rosebud Indians."

It is believed that a compensation of \$10 per day and the necessary expenses is ample, and for the purpose of

certainty in this regard, it is suggested that there be inserted after the word "expenses," in line 11, page 5, the words "exclusive of subsistence."

It is entirely just and reasonable that the Indians should be paid for the lands granted to the State of South Dakota at the rate of \$2.50 per acre, and it is therefore suggested that the bill be amended by striking out the words "one dollar and twenty-five cents" in line 2, on page 8, and inserting in lieu thereof the words "two dollars and fifty cents." Should the bill be amended in this respect it would be necessary to increase the appropriation provided for in section 8 for lands granted to the State, by striking out "sixty-five" in line 16, on page 8, and inserting in lieu thereof "one hundred and twenty-five."

It is found that the work of allotting, classifying, and appraising Indian lands costs, approximately, \$1,000 a township. Since there are about 36 townships within that part of the Rosebud Reservation proposed to be opened by the bill, the department believes that the sum of \$35,000 will be needed for this work, and therefore suggests that "twenty-five" in line 20, on page 8, be stricken out and "thirty-five" be inserted in lieu thereof.

There are two other matters which the department deems it appropriate to bring to the attention of your committee in connection with this bill. It has been suggested it would be good policy to set aside within town sites established on Indian reservations lands for school, park, and other public purposes, and to apply not more than 20 per cent of the net proceeds from sales of lots in such town sites to aid the construction of schoolhouses and other public buildings in such towns. Provisions to accomplish this have been inserted in H. R. 12440, a bill to authorize the sale and disposition of the land involved in the bill hereunder consideration. A bill has also been

introduced in the House of Representatives (H. R. 6740) making like provisions applicable to all town sites established on Indian reservations and also on the public lands.

If your committee deems it advisable to provide for these matters in this bill, it could be done by inserting after the word "statutes," in line 9, page 7, a semicolon and the following:

"And he is hereby authorized to set apart and reserve for school, park, and other public purposes not more than ten acres in any town site, and to issue patents for such reserved tracts to the municipality legally charged with the care and custody of lands donated for such purposes. And the Secretary of the Interior shall cause not more than twenty per centum of the net proceeds arising from such sales to be set apart and expended under his direction in aiding the construction of schoolhouses or other buildings or improvements in the town sites in which such lots are located."

If this be done, there should be inserted after the word "lands," in line 10, on page 7, the words "less the amount set aside to aid in the construction of schoolhouses or other buildings or improvements."

It has been suggested that there should be inserted in this and like bills a clause to read as follows:

"That the lands allotted, those retained or reserved, and the surplus lands sold, set aside for town-site purposes, or granted to the State or otherwise disposed of, shall be subject for a period of twenty-five years to all the laws of the United States prohibiting the introduction of intoxicants into the Indian country."

It has been found that like provisions inserted in other laws have proved of benefit to the Indians and of great assistance to this department in enforcing the laws prohibiting the sale of intoxicants to Indians. The Supreme

Court in the case of *Dick v. United States* (208 U. S., 340) has upheld the validity of such a law.

This department recommends the adoption of the changes herein suggested.

Very respectfully,

R. A. Ballinger, *Secretary*.

Hon. Moses E. Clapp,
Chairman Committee on Indian Affairs,
United States Senate.

[#35D]

(House of Representatives report to accompany S. 183)

[H.R. Rep. No. 1368, 61st Cong. 2d Sess. 1-5 (1910)]

Report No. 1368.

DISPOSITION OF CERTAIN LANDS IN ROSEBUD INDIAN RESERVATION, S. DAK.

May 16, 1910.—Ordered to be printed.

Mr. Burke, of South Dakota, from the committee of conference, submitted the following

CONFERENCE REPORT.

[To accompany S. 183.]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 183) authorizing the sale and disposition of a portion of the surplus and unallotted lands in the Rosebud Indian Reservation, in the State of South Dakota, and making appropriation and provision to carry the same into effect, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House, and agree to the same with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

That the Secretary of the Interior be, and he is hereby, authorized and directed, as hereinafter provided, to sell and dispose of all that portion of the Rosebud Indian Reservation, in the State of South Dakota, lying and being within the counties of Mellette and Washabaugh, south of the White River, and being described and bounded as follows: Beginning at a point on the third guide meridian west where the township line between townships thirty-nine and forty intersects the same, thence north along said guide meridian to the middle of the channel of White River, thence west along the middle of the main channel of White River to the point of intersection with the line dividing the Rosebud and the Pine Ridge Indian reservations, thence south along the boundary line between said reservations to the township line separating townships thirty-nine and forty, thence east along said township line to the place of beginning, except such portions thereof as have been or may be hereafter allotted to Indians or otherwise reserved, and except lands classified as timber lands: Provided, That any Indians to whom allotments have been made on the tract to be ceded may, in case they elect to do so before said lands are offered for sale, relinquish same and select allotments in lieu thereof on the diminished reservation: And provided further, That the Secretary of the Interior may reserve such lands as he may deem necessary for agency, school, and religious purposes, to remain reserved as long as needed and as long as agency, school, or religious institutions are maintained thereon for the benefit of said Indians: And provided further, That the Secretary of the Interior is hereby authorized and directed to issue a patent in fee simple to the duly authorized missionary board, or other authority, of any religious organization heretofore engaged in mission or school work on said reservation for such lands thereon (not included in any

town-site hereinafter provided for) as have heretofore been set apart to such organization for mission or school purposes.

Sec. 2. That the lands shall be disposed of under the general provisions of the homestead and town-site laws of the United States, and shall be opened to settlement and entry by proclamation of the President, which proclamation shall prescribe the manner in which the lands may be settled upon, occupied, and entered by persons entitled to make entry thereof, and no person shall be permitted to settle upon, occupy, or enter any of said lands except as prescribed in such proclamation: Provided, That prior to said proclamation the allotments within the portion of the said Rosebud Reservation to be disposed of as prescribed herein shall have been completed: Provided further, That the rights of honorably discharged Union soldiers and sailors of the late civil and Spanish wars or Philippine insurrection as defined and described in sections twenty-three hundred and four and twenty-three hundred and five of the Revised Statutes as amended by the Act of March first, nineteen hundred and one, shall not be abridged.

Sec. 3. That before any of the land is disposed of, as hereinafter provided, and before the State of South Dakota shall be permitted to select or locate any lands to which it may be entitled by reason of the loss of sections sixteen or thirty-six, or any portions thereof, by reason of allotments thereof to any Indian or Indians, the Secretary of the Interior is authorized to reserve from said lands such tracts for town-site purposes as in his opinion may be required for the future public interests, and he may cause same to be surveyed into lots and blocks and disposed of under such regulations as he may prescribe; and he is hereby authorized to set apart and reserve for school, park, and other public purposes not more than

ten acres in any town-site, and patents shall be issued for the lands so set apart and reserved for school, park, and other public purposes to the municipality legally charged with the care and custody of lands donated for such purposes. The purchase price of all town lots sold in town-sites, as hereinafter provided, shall be paid at such time and in such installments as the Secretary of the Interior may direct, and he shall cause not more than twenty per centum of the net proceeds arising from such sales to be set apart and expended under his direction in the construction of schoolhouses or other public buildings or in improvements within the town-sites in which such lots are located. The net proceeds derived from the sale of such lots and lands within the town-sites as aforesaid, less the amount set aside to aid in the construction of schoolhouses or other public buildings or improvements, shall be credited to the Indians, as hereinafter provided.

Sec. 4. That the price of said lands entered as homesteads under the provisions of this Act shall be fixed by appraisement, as herein provided. The President shall appoint a commission, to consist of three persons, to classify, appraise, and value all of said lands that shall not have been allotted in severalty to said Indians, or reserved by the Secretary of the Interior or otherwise disposed of, and excepting sections sixteen and thirty-six or other lands which may be selected in lieu thereof by the State of South Dakota, in each of said townships, said commission to be constituted as follows: One resident citizen of the State of South Dakota, one representative of the Interior Department, and one person holding tribal relations with said tribe of Indians. That within twenty days after their appointment the said commissioners shall meet and organize by the election of one of their number as chairman. The said commissioners shall then proceed to personally inspect, classify, and appraise,

in one hundred and sixty acre tracts each, all of the remaining unallotted lands embraced within that portion of the reservation described in section one of this Act. In making such classification and appraisement said lands shall be divided into the following classes: First, agricultural land of the first class; second, agricultural land of the second class; third, grazing land; fourth, timber land; fifth, mineral land, if any, but the mineral and timber lands shall not be appraised: Provided, That timber lands may be classified without regard to acreage: And provided further, That all lands classified as timber lands shall be reserved for the use of the Rosebud Indians. That said commissioners shall be paid a salary of not to exceed ten dollars per day each while actually employed in the inspection, classification, and appraisement of said lands, and necessary expenses, exclusive of subsistence, to be approved by the Secretary of the Interior, such inspection, classification, and appraisement to be completed within six months from the date of organization of said commission.

Sec. 5. That said commission shall be governed by regulations prescribed by the Secretary of the Interior; and after the completion of the classification and appraisement of all of said lands the same shall be subject to the approval of the Secretary of the Interior.

Sec. 6. That the price of said lands disposed of under the homestead laws shall be paid in accordance with rules and regulations to be prescribed by the Secretary of the Interior upon the following terms: one-fifth of the purchase price to be paid in cash at the time of entry and the balance in five equal annual installments, to be paid in two, three, four, five, and six years, respectively, from and after the date of entry. In case any entryman fails to make the annual payments, or any of them, when due, all rights in and to the land covered by his entry shall cease,

and any payments theretofore made shall be forfeited and the entry canceled, and the lands shall be again subject to entry under the provisions of the homestead law at the appraised price thereof: And provided, That nothing in this Act shall prevent homestead settlers from commuting their entries under section twenty-three hundred and one, Revised Statutes, by paying for the land entered the appraised price, receiving credit for payments previously made. In addition to the price to be paid for the land, the entryman shall pay the same fees and commissions at the time of commutation or final entry as now provided by law where the price of land is one dollar and twenty-five cents per acre, and when the entryman shall have complied with all the requirements and terms of the homestead laws as to settlement and residence and shall have made all the required payments aforesaid he shall be entitled to a patent for the lands entered: And provided further, That all lands remaining undisposed of at the expiration of four years from the opening of said lands to entry may, in the discretion of the Secretary of the Interior, be reappraised in the manner provided for in this Act.

Sec. 7. That from the proceeds arising from the sale and disposition of the lands aforesaid, exclusive of the customary fees and commissions, there shall be deposited in the Treasury of the United States, to the credit of the Indians belonging and having tribal rights on the said reservation, the sums to which the said tribe may be entitled, which shall draw interest at three per centum per annum; that the moneys derived from the sale of said lands and deposited in the Treasury of the United States to the credit of said Indians shall be at all times subject to appropriation by Congress for their education, support, and civilization.

Sec. 8. That sections sixteen and thirty-six of the land in each township within the tract described in section one of this Act shall not be subject to entry, but shall be reserved for the use of the common schools and paid for by the United States at two dollars and fifty cents per acre, and the same are hereby granted to the State of South Dakota for such purpose, and in case any of said sections, or parts thereof, are lost to said State by reason of allotments thereof to any Indian or Indians, or otherwise, the governor of said State, with the approval of the Secretary of the Interior, is hereby authorized, within the area described in section one of this Act, to locate other lands not otherwise appropriated, which shall be paid for by the United States as herein provided, in quantity equal to the loss, and such selections shall be made prior to the opening of such lands to settlement: Provided, That in any event not more than two sections shall be granted to the State in any one township, and lands must be selected in lieu of sections sixteen or thirty-six, or both, or any part thereof, within the township in which the loss occurs, except in any township where there may not be two sections of unallotted lands, in which event whatever is required to make two sections may be selected in any adjoining township.

Sec. 9. That there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of not more than one hundred and twenty-five thousand dollars, or so much thereof as may be necessary, to pay for the lands granted to the State of South Dakota, as provided in section eight of this Act. And there is hereby appropriated the further sum of thirty-five thousand dollars, or so much thereof as may be necessary, for the purpose of making the appraisal and classification provided for herein: Provided, That the latter appropriation, or any further appropriation here-

after made for the purpose of carrying out the provisions of this Act, shall be reimbursed to the United States from the proceeds received from the sale of the lands described herein or from any money in the Treasury belonging to said Indian tribe.

Sec. 10. That the lands allotted, those retained or reserved, and the surplus land sold, set aside for town-site purposes, granted to the State of South Dakota, or otherwise disposed of, shall be subject for a period of twenty-five years to all the laws of the United States prohibiting the introduction of intoxicants into the Indian country.

Sec. 11. That nothing in this Act contained shall in any manner bind the United States to purchase any portion of the land herein described, except sections sixteen and thirty-six, or the equivalent in each township, or to dispose of said land except as provided herein, or to guarantee to find purchasers for said lands or any portion thereof, it being the intention of this Act that the United States shall act as trustee for said Indians to dispose of the said lands, and to expend and pay over the proceeds received from the sale thereof only as received and as herein provided: Provided, That nothing in this Act shall be construed to deprive the said Indians of the Rosebud Indian Reservation of any benefits to which they are entitled under existing treaties or agreements not inconsistent with the provisions of this Act.

And the House agree to the same.

Amendment of title.

That the Senate recede from its disagreement to the amendment of the House and agree to the same.

Chas. H. Burke,

P. P. Campbell,

Jno. H. Stephens,

Managers on the part of the House.

Robert J. Gamble,

Moses E. Clapp,

W. E. Purcell,

Managers on the part of the Senate.

[#36]

(Letter of Feb. 25, 1910 to President Taft from
Rosebud Indian Tribal Council.)

ROSEBUD SOUTH DAKOTA

February 25th, 1910

To the Hon. Wm. Taft

President of the United States of America

Kind Sir:

We petition you not to approve of the Gamble bill which has passed the House of Representatives in this last Session of Congress, because we would like as a people, for the betterment of the Sioux Indians to request that several conditions be stipulated regarding the opening of said Country.

No U.S. Indian Inspector, nor any other person or persons as yet has been authorized to explain this bill to us; therefore we would like to see someone that can give us at least a word security regarding the opening of any lands upon what now constitutes our reservation.

Hoping you will consider our petition favorably and that we may have the opportunity to meet a Representative of the United States before you approve of said bills. We remain yours respectfully.

President of Rosebud Indian
Tribal Council

Reubin Quick Bear
Secy., Rosebud Indian Tribal Council
and the People

[#37]

(Legislative history of H.R. 12437 — the House of Representatives companion bill to S. 183 which was enacted May 30, 1910.)

[45 Cong. Rec. 295 (1909-1910)]

Rosebud Reservation: bills for sale and disposition of surplus and unallotted lands in (see bills S. 183: H.R. 12437).

[45 Cong. Rec. 147 (1909-1910)]

H.R. 12437 — To authorize the sale and disposition of a portion of the surplus and unallotted lands in Mellette and Washabaugh counties in the Rosebud Indian Reservation, in the State of South Dakota, and making appropriation and provision to carry the same into effect.

Mr. Burke of South Dakota; Committee on Indian Affairs 10. — Reported with amendment (H.R. Report 332) 1135. — Laid on the table (see bill S. 2341) 5476.

[45 Cong. Rec. 10 (1909)]

By Mr. Burke of South Dakota: A bill (H.R. 12437) to authorize the sale and disposition of a portion of the surplus and unallotted lands in Mellette and Washabaugh counties in the Rosebud Indian Reservation, in the State of South Dakota, and making appropriation and provision to carry the same into effect — to the Committee on Indian Affairs.

[45 Cong. Rec. 1135 (1910)]

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

* * *

Mr. Burke of South Dakota, from the Committee on Indian Affairs, to which was referred the bill of the House (H.R. 12437) to authorize the sale and disposition of a portion of the surplus and unallotted lands in Mellette and Washabaugh counties in the Rosebud Indian Reservation, in the State of South Dakota, and making appropriation and provision to carry the same into effect, reported the same with amendment, accompanied by a report (No. 332), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

[45 Cong. Rec. 5476 (1910)]

By unanimous consent the title was amended to read: "An act to authorize the sale and disposition of the surplus and unallotted lands in Bennett County, in the Pine Ridge Indian Reservation, in the State of South Dakota, and making appropriation to carry the same into effect."

On motion of Mr. Burke of South Dakota a motion to reconsider the votes by which the several bills passed to-day was ordered to lie on the table.

Mr. Mann. Mr. Speaker, I suggest to the gentleman from South Dakota that there are two similar House bills — H.R. 12437 and 12440.

Mr. Burke of South Dakota. I was going to make a request that those bills lie on the table. They are similar House bills, and I ask that they lie on the table.

The Speaker. If there be no objection, the bills referred to (H.R. 12437 and 12440) will lie on the table.

There was no objection.

[#37A]

(The House of Representatives report to
accompany H.R. 12437)

[H.R. Rep. No. 332, 61st Cong. 2d Sess. 1-5 (1910)]

Report No. 332.

DISPOSITION OF CERTAIN LANDS IN ROSEBUD RESERVATION, S. DAK.

January 27, 1910.—Committed to the Committee of the
Whole House on the state of the Union and ordered to be
printed.

Mr. Burke, of South Dakota, from the Committee on
Indian Affairs submitted the following:

REPORT.

[To accompany H. R. 12437.]

The Committee on Indian Affairs, to whom was
referred House bill 12437, submit the following report:

The purpose of this bill is to authorize the sale and
disposition of that portion of the surplus and unallotted
lands in the Rosebud Reservation in South Dakota
included in the counties of Mellette and Washabaugh. The
committee recommends the passage of the bill, with the
following amendments:

Page 3, line 8, strike out the words "Pine Ridge" and
insert in lieu thereof the word "Rosebud."

Page 4, line 6, after the word "other" insert the word
"public," so that the line will read, "for school, park, and
other public purposes," etc.

Page 4, line 17, after the word "aforesaid" insert the
following words: "less the amount set aside to aid in the
construction of schoolhouses or other public buildings or
improvements;" so that it will read, "of such lots and
lands within the town sites as aforesaid, less the amount
set aside to aid in the construction of schoolhouses or
other public buildings or improvements, shall be credited
to the Indians, as hereinafter provided."

Page 5, line 1, after the word "thirty-six," insert the
words "or other lands which may be selected in lieu
thereof by the State of South Dakota."

Page 5, line 17, after the word "mineral," insert the
words "and timber," and after the word "appraised"
insert the following words: "*Provided*, That timber land
may be classified and appraised without regard to
acreage: *And provided further*, That any levels classified
as timber lands shall not be disposed of, but shall be
reserved for the use of the Rosebud Indians."

Page 5, line 20, after the word "expenses," insert the
words "exclusive of subsistence."

Page 6, line 15, strike out the words "reoffered for sale
and," and insert in lieu thereof the words "again subject
to," so that it will read "and the lands shall be again
subject to entry under the provisions," etc.

Page 7, line 21, strike out the word "three," and insert
in lieu thereof the word "five."

Page 8, line 18, after the word "thirty-six," insert the
words "or both."

Page 9, line 5, strike out the word "twenty-five," and
insert in lieu thereof the word "thirty-five."

Page 9, lines 14 to 20, strike out all of section 10, and
insert in lieu thereof:

Sec. 10. That the lands allotted, those retained or
reserved, and the surplus land sold, set aside for
town-site purposes, or granted to the State, or

otherwise disposed of, shall be subject for a period of twenty-five years to all the laws of the United States prohibiting the introduction of intoxicants into the Indian country.

The Rosebud Indian Reservation when set aside as a separate reservation under the Sioux act of 1889 contained something over 3,000,000 acres of land. In 1904 the unused and unallotted portion of the reservation in Gregory County, about 500,000 acres, was disposed of and the Indians received therefrom something more than \$1,500,000. In the Fifty-ninth Congress a law was enacted authorizing the sale of the unused and unallotted lands in that portion of the reservation in Tripp County, comprising about 1,000,000 acres, under a bill substantially in the same form as the bill now under consideration, except that the price of the land was fixed in the law, whereas under this bill the price is to be fixed by appraisement. The proclamation for the disposition of Tripp County lands was not issued until last year, and therefore it was not subject to filing until that time. A very large part of the lands has been entered under the homestead laws, but it is not possible to state just how much will be received from the sale of the lands in Tripp County; it will, however, undoubtedly amount to \$4,000,000.

The area comprised in the present bill is about 800,000 acres and the proceeds from the sale thereof, under the terms of the bill, will probably amount to \$3,000,000. There will still be left a reservation containing about 1,000,000 acres, and as the Indians have all been allotted there is no occasion for continuing a reservation larger than it will be when Mellette County is disposed of.

The bill is carefully safeguarded and provides that Indians who have taken allotments in the area proposed to be disposed of may relinquish such allotments and be

reallotted within the diminished reservation, if they so elect. There is also a provision reserving sections 16 and 36 of the lands in each township for the use of the common schools of the State of South Dakota, to be paid for by the Government of \$2.50 per acre. The granting of these lands to the State is in accordance with the provisions of the enabling act admitting South Dakota into the Union.

Provision is made to reserve lands used for agency, school, and religious purposes.

The bill provides that there shall be appointed a commission consisting of three persons, one a resident citizen of the State of South Dakota, one a person holding tribal relations with the Rosebud Indians, and the other a representative of the Interior Department, the commission to be appointed by the President. The commission are required within six months after their appointment to examine, qualify, and appraise lands that are to be disposed of, and the appraised valuation will be the price to be paid by the settler, who is required to pay one-fifth thereof in advance and the balance in five equal annual installments. The appraisement is subject to the approval of the Secretary of the Interior.

Provision is made directing the Secretary of the Interior to reserve from said lands, such tracts for town-site purposes as in his opinion may be advisable, and the same shall be surveyed into lots and blocks and disposed of under regulations to be prescribed by him, and the proceeds from the sale to go to the credit of the Indians. The Secretary of the Interior is required, however, to reserve not more than 10 acres in each town site for school, park, and other public purposes, and he is authorized to withhold 20 per cent of the net proceeds from the sale of the town site, which is to be expended in aiding in the construction of schoolhouses or other public buildings in the town.

It is the opinion of the department, as expressed in a communication to this committee on H. R. 6740, that this is a wise provision, and that it will probably mean that more money will be received from the sale of town lots net to the Indians than if they received all the proceeds without such provision. The proceeds derived from the sale of the lands and the town lots, except the 20 per cent as above stated, are to be deposited in the Treasury to the credit of the Rosebud Indians with interest thereon at 3 per cent per annum, and shall be subject to appropriation for their support under article 12 of the agreement made with the Sioux Indians dated March 2, 1889.

The communication from the Secretary of the Interior on H. R. 6740, referred to above, dated December 21, 1909, relative to the provision just referred to, states:

Regarding the provision in H. R. bill No. 6740, authorizing the expenditure, under the direction of the Secretary of the Interior, of 20 per cent of the net proceeds derived from the sale of town lots in constructing schoolhouses or other public buildings or improvements, it is evident that such a provision would result in a far more rapid growth, of a substantial nature, of the towns than would be the case if the construction of schools and public buildings were left to the municipal authorities. This provision would make available, almost immediately, funds for the erection of school buildings, and insure that such buildings would be adequate and sanitary.

It is also evident that the value of town lots, within a town site which is assured funds for the erection of substantial and ample schools and other public buildings, would be enhanced by such an assurance, and it is believed that by properly placing these advantages before the public in conducting the sale

of town lots, the net proceeds to be derived therefrom for the benefit of the Indians entitled would be equal to if not greater than would be the case if 20 per cent of the proceeds were not made available for public improvements.

While there does not appear to be any timber upon the lands affected by this bill, the committee thought it advisable to provide that in case there is any timber land it shall not be disposed of, but shall be reserved for the use of the Indians.

The amendment proposed and adopted for section 10 of the bill is in accordance with recent precedents and is a wise provision, as it is generally recognized that it is of the greatest importance that intoxicating liquors be kept as far as possible from the Indian, and that a provision such as this is not only for their best interests, but will be of equal benefit to the people who will settle and develop the area described in the first section of the bill.

The bill is drafted in accordance with negotiations conducted by the well-known Indian inspector, Major McLaughlin, who visited the reservation and negotiated with the Indians, and they are satisfied to have the unallotted lands described herein disposed of.

The money appropriated by the bill is all reimbursable, and immediately after the opening takes place the same will be repaid into the Treasury from proceeds from disposition of the lands.

The Secretary of the Interior in reporting upon a bill in the Senate (S. 183) substantially in the same form as this bill, reported as follows (see S. Rept. No. 68):

Department of the Interior,
Washington, January 13, 1910.

Sir: The department has received, by your reference, for recommendation and report a copy of Senate bill 183, authorizing the sale and disposition of a portion of the surplus unallotted lands in the Rosebud Indian Reservation, in the State of South Dakota.

Inspector McLaughlin submitted this matter to the Indians, who, while they were opposed to opening all the lands described in the bill, indicated a disposition to acquiesce in the opening of a part of the lands of their reservation lying north of the tenth standard parallel. In connection with this, however, the Indians insisted that they should be paid at the rate of \$2.50 per acre for the lands granted to the State of South Dakota, and expressed a strong desire that the timber on the part of the reservation to be opened be reserved for the Indians. It is believed these requests of the Indians are just and reasonable and should be complied with.

It is recommended that the description of the lands to be opened be changed to read as follows:

"Commencing at a point on the western boundary of the Rosebud Indian Reservation, in the State of South Dakota, where it intersects the township line between townships 39 and 40 north, running thence north along said boundary line to a point in the center of the main channel of the White River; thence easterly along the center of the main channel of said White River to a point where the range line between ranges 24 and 25, west of the sixth principal meridian, intersects the same; thence south on said range line between ranges 24 and 25 west to a point where it is intersected by the township line between townships 39 and 40 north; thence west along said township line between townships 39 and 40 north to the place of beginning."

The words "Indian Bureau," in line 19, on page 4, should be stricken out and the words "Interior Department" inserted in lieu thereof. There should be inserted after the word "empowered," in line 24 of page 4, the words "to select such clerks and assistants at such compensation." The word "each," in line 2, page 5, should be stricken out and the words "that portion of said" be inserted.

If the timber land could be appraised only in 160-acre tracts, it would perhaps be found necessary to include in such classification much valuable agricultural land in order to embrace all the timber. To meet this condition it is suggested that there be inserted after the word "mineral," in line 8, on page 5, the words "and timber," and after the word "appraised," in said line 8, there be inserted the following: "*Provided*, That timber lands shall be classified without regard to acreage: *And provided further*, That all lands classified as timber lands shall be reserved for the use of the Rosebud Indians."

It is believed that a compensation of \$10 per day and the necessary expenses is ample, and for the purpose of certainty in this regard, it is suggested that there be inserted after the word "expenses," in line 11, page 5, the words "exclusive of subsistence."

It is entirely just and reasonable that the Indians should be paid for the lands granted to the State of South Dakota at the rate of \$2.50 per acre, and it is therefore suggested that the bill be amended by striking out the words "one dollar and twenty-five cents" in line 2, on page 8, and inserting in lieu thereof the words "two dollars and fifty cents." Should the bill be amended in this respect it would be necessary to increase the appropriation provided for in section 8 for lands granted to the State, by striking out "sixty-five" in line 16, on page 8, and inserting in lieu thereof "one hundred and twenty-five."

It is found that the work of allotting, classifying, and appraising Indian lands costs, approximately, \$1,000 a township. Since there are about 36 townships within the part of the Rosebud Reservation proposed to be opened by the bill, the department believes that the sum of \$35,000 will be needed for this work, and therefore suggests that "twenty-five" in line 20, on page 8, be stricken out and "thirty-five" be inserted in lieu thereof.

There are two other matters which the department deems it appropriate to bring to the attention of your committee in connection with this bill. It has been suggested it would be good policy to set aside within town sites established on Indian reservations lands for school, park, and other public purposes, and to apply not more than 20 per cent of the net proceeds from sales of lots in such town sites to aid the construction of schoolhouses and other public buildings in such towns. Provisions to accomplish this have been inserted in H. R. 12440, a bill to authorize the sale and disposition of the land involved in the bill here under consideration. A bill has also been introduced in the House of Representatives (H. R. 6740) making like provisions applicable to all town sites established on Indian reservations and also on the public lands.

If your committee deems it advisable to provide for these matters in this bill, it could be done by inserting after the word "statutes," in line 9, page 7, a semicolon, and the following:

"And he is hereby authorized to set apart and reserve for school, park, and other public purposes not more than ten acres in any town site, and to issue patents for such reserved tracts to the municipality legally charged with the care and custody of lands donated for such purposes. And the Secretary of the Interior shall cause not more than twenty per centum of the net proceeds

arising from such sales to be set apart and expended under his direction in aiding the construction of schoolhouses or other buildings or improvements in the town sites in which such lots are located."

It has been suggested that there should be inserted in this and like bills a clause to read as follows:

"That the lands allotted, those retained or reserved, and the surplus lands sold, set aside for town-site purposes, or granted to the State or otherwise disposed of, shall be subject for a period of twenty-five years to all the laws of the United States prohibiting the introduction of intoxicants into the Indian country."

It has been found that like provisions inserted in other laws have proved of benefit to the Indians and of great assistance to this department in enforcing the laws prohibiting the sale of intoxicants to Indians. The Supreme Court in the case of *Dick v. United States* (208 U. S., 340) has upheld the validity of such a law.

This department recommends the adoption of the changes herein suggested.

Very respectfully,

R. A. Ballinger,
Secretary.

Hon. Moses E. Clapp,
Chairman Committee on Indian Affairs,
United States Senate.

[#38]

(Letter of Jan. 13, 1910 to Congressman Burke
from the Secretary of the Interior concerning H.R. 12437)

Subject:

H.R. Bill No. 12437

Rosebud Reservation.

98358 - '09

Jan. 13, 1910

Hon. Charles H. Burke,
Chairman Committee on Indian Affairs,
House of Representatives.

Sir:

The Department is in receipt of your letter of December 8, enclosing for report and recommendation a copy of H.R. Bill No. 12437, Sixty-first Congress, Second Session, to authorize the sale and disposition of a portion of the surplus lands in the Rosebud Indian Reservation, South Dakota.

It is suggested that the first proviso in section two be changed to read as follows:

Provided, That prior to said proclamation the Secretary of the Interior shall cause allotments to be made to every man, woman, and child belonging to or holding tribal relations in said reservation, who have not heretofore received the allotments to which they are entitled under provisions of existing laws.

The provisions of section three authorizing the setting apart for school, park, and other public purposes not more than ten acres in any townsite, and providing that the Secretary of the Interior shall cause not more than twenty per centum of the net proceeds arising from the sales of town lots to be expended in the construction of school houses, or other public buildings, or in improve-

ments, present new features in legislation of this character. This Department is not inclined to interpose any objection to the adoption of such a plan. It is proposed by H.R. No. 6740, to enact general legislation of this character applicable to all townsites, both in Indian reservations and on the public domain. If the bill should be enacted into a law, it would, perhaps, be unnecessary to include the provisions in this bill. If this provision remains there should be inserted after the word "afore-said" in line seventeen, page four, the words "less the amount set aside to aid in the construction of school houses or other buildings or improvements."

The Department is informed that much of the timber on this part of the Rosebud Reservation is in small groves, and that to appraise such lands in tracts of one hundred and sixty acres, would be to include with the timber lands much valuable agricultural land. To meet this condition it is suggested that there be inserted after the word "mineral" in line seventeen, page five, the words "and timber" and after the word "appraised" in line seventeen, page 5, the following - "Provided that timber land may be classified and appraised without regard to acreage and provided further that any lands classified as timber lands shall not be disposed of but shall be reserved for the use of the Rosebud Indians."

It is believed that a salary of ten dollars per day and the payment of all necessary expenses exclusive of subsistence affords adequate compensation for the work of classifying and appraising the surplus lands, and it is therefore recommended that the words "exclusive of subsistence" be inserted after the word "expenses" in line twenty, page five.

It has been found that the cost of classifying and appraising Indian lands approximates one thousand dollars for each township. Inasmuch as there are thirty-six

townships within the portion of the Rosebud Reservation proposed to be opened, "twenty-five" in line five, on page nine, should be stricken out and there should be inserted in lieu thereof "thirty-five."

Section ten provides punishment by imprisonment and fine, or both, for every person who shall sell or give away intoxicating liquors upon any of the lands allotted, reserved, or disposed of within this tract. The Supreme Court of the United States in [Dick v. United States] (208 U.S., 340), sustained a provision prohibiting the introduction of intoxicating liquors upon lands ceded by Indians, for a period of twenty-five years, but emphasized strongly the fact that the provision was for a limited period reasonable in duration. The Department doubts very much the advisability of attempting to impose upon ceded lands a perpetual prohibition against the sale of intoxicants, and also doubts the advisability of prescribing punishment for the sale of liquors in violation of the law. The degree of punishment should be uniform, and, therefore, should be established by reference to the Revised Statutes of the United States relating to this subject. If a provision of this character is to be retained, it should be in substance in the following language:

That the lands allotted, those retained or reserved, and the surplus lands sold, set aside for townsite purposes, or granted to the State, or otherwise disposed of, shall be subject for a period of twenty-five years to all the laws of the United States prohibiting the introduction of intoxicants into the Indian country.

Very respectfully,
(Signed) R.A. Ballinger
Secretary

BCS-12

[#39]

(Legislative history of S. 8918, a bill for the sale of surplus lands in Todd & Bennett Counties of the Rosebud Reservation.)

[46 Cong. Rec. 147 (1910-1911)]

Rosebud Reservation: bill for sale of surplus and unallotted lands in (see bill S. 8918).

[45 Cong. Rec. 14 (1910-1911)]

S. 8918 — To Authorize the sale and disposition of a portion of the surplus and unallotted lands in Todd and Bennett Counties, in the Rosebud Indian Reservation, in the State of South Dakota, and making appropriation and provision to carry the same into effect.

Mr. Gamble; Committee on Indian Affairs, 55.

[45 Cong. Rec. 55 (1910)]

A bill (S. 8918) to authorize the sale and disposition of a portion of the surplus and unallotted lands in Todd and Bennett Counties, in the Rosebud Indian Reservation, in the State of South Dakota, and making appropriation and provision to carry the same into effect; to the Committee on Indian Affairs.

[#40]

(Letter of November 12, 1910 to Mr. Schofield from the Second Assistant Commissioner of Indian Affairs.)

Land-Allotments

87601-1910

W A M

Surplus lands,
Rosebud Reservation

Nov. 19, 1910

Mr. C. Schofield,
Sioux Falls, South Dakota

Sir:

Your letter of October 22, 1910, to the President regarding the opening of a part of the Rosebud Reservation to settlement, has been referred to this Office for consideration.

In response you are informed that the opening of a part of the Rosebud Reservation to settlement was with the general consent of the Indians. The Act of May 30, 1910 (35 Stat. L., 448), authorizing this opening, provides for allotments in the opened territory to every man, woman, and child who has not heretofore received an allotment; and also for payment to the Indians for the surplus lands disposed of to homestead entrymen.

The diminished reservation — that is, the lands remaining after the allotments and sale of lands referred to, will consist of about 40 townships, which may be used to provide allotments until such time as there are no unallotted lands therein.

Very respectfully,
(Signed) C.F. Henke,
Second Assistant Commissioner

11-WJ-5

Sioux Falls, S.D.

Oct. 22, 1910

To the President

Dear Friend

Hearing that 800,000 acres of the Rosebud Indian Reservation is to be opened for settlement I would ask you as an honorable Christian gentleman to put yourself on record in opposition to any such iniquity. An Indian reservation is a reservation sacred to the Indians and to coolly turn around and announce as an opening for White settlement of such land is shameless robbery to any mind, and I am a white person too.

Even though obliged to do as Congress directs a show of resistance would be becoming I would suggest to such atrocious and impudent measures.

Yours,
C. Schofield

[#41]

(Series of letters between Mr. M.R. Derig and the Second Assistant Commissioner of Indian Affairs concerning the sale of surplus lands in Todd County in the Rosebud Reservation.)

Land-Allotments

8613-1911

J T R

Opening Rosebud.

Feb. 8, 1911

Mr. Matthew R. Derig,
Carter, South Dakota

Sir:

The Office has received your letter of January 25, 1911, regarding the opening of Todd County, South Dakota, within the Rosebud Indian Reservation.

A bill was introduced in the Senate on December 7, 1910 (Senate 8918), providing for the disposal of the surplus lands within Todd County, South Dakota, in the Rosebud Reservation but as far as the Office has been advised this bill was not referred to the Department for consideration and it is not believed that action will be had on the bill by the Congress at its present session.

Respectfully,
(Signed) C.F. Hauke
Second Assistant Commissioner

2-VAR-6

Department of the Interior,
United States Indian Service
Rosebud Reservation
P.O., Carter, S.D.

Jan. 25, 1911

Hon. R. G. Valentine,
Commissioner of Indian Affairs,
Washington, D.C.

Dear Sir —

I send herewith a letter expressing a portion of my views in objection to the Bill introduced for the opening of Todd County, S.D. If you would be pleased to do so I would like that the letter be placed with the Senate Committee on Indian Affairs.

Believing that first-hand information on the policy of such Bill should be offered, I am very respectfully

Matthew R. Derig
Teacher

Department of the Interior
United States Indian Service
Rosebud Reservation
Carter, S.D.

January 23rd, 1911

Your attention is respectfully invited to the general policy of the bill introduced in the Senate having for its purpose the opening to white settlement and purchase of unallotted lands in Todd Co. South Dakota.

This bill if passed will deprive the Brule Sioux Indians of practically their last vestige of free range for cattle, stock raising being their normal means of supporting themselves and their most natural vocation, as was the case with the white race in its economic advance from the hunting and fishing stage.

Advocates of the bill are certainly misinformed if they assume that these Indians are so advanced and conditioned as to be able to make their own living or a fair fraction of it by cultivating the land. Attempts have been made by the Government, at some times more energetic than at others, during some twenty years past to induce these Indians to do some farming and gardening. There are grave doubts if during any one year a tenth part of their entire wants have been supplied from this source. Also the well intentioned system of education which has been carried on for a somewhat longer period, and which includes a fair part of the time, instruction in industrial training, seems to fall short of equipping the Indian youth for the agricultural stage. This is probably because of their traditional attitude towards labor and continuous application, lack of thrift and meager returns from attempts made. If observing the white man's method is relied on to stimulate the Indians' farming the occasional settler on recently purchased heirship lands and those in surrounding counties, should serve the purpose.

Though with the apparently fair method of purchase and settlement provided in the bill, the white settler, if history repeats itself, will become "disillusioned." He will have a dozen disadvantages compared with the homesteader of recently opened counties where it is said that only one third of the original filers "stay it out" for a full five year period. It is known that in belts of this state east of the Missouri River thousands of thrifty and industrious white families who had centuries of farming and civilization bred into them, were during periods of "bad years" forced to give up their lands.

Mostly because of a succession of "good years" and partly because of improved methods and machinery together with advanced prices of farm products, a land boom has prevailed around this reserve. The result is a

hunger for this remnant as farm land, and without thought even that the un-born Indian child must get along without a parcel of land though he will need it far more than those now living.

These Indians have been living for a generation almost wholly on rations and work supplied by the Government, together with the proceeds of the sale of ceded lands, of heirship lands and the occasional sale of or slaughter of cattle. Their aggregate area of land is now reduced to a very small fraction of what it was a generation ago.

Assuming that the next step in this assimilating process is to merge these Indians and others similarly situated into the body politic of the state — the Government thus shifting the "White man's burden" — what of the outlook?

For the welfare of Rosebud Indians (some 5000 persons) the Government expends annually for management of affairs, subsistence, civilization, including education — the largest item policing, custodianship etc. a sum probably well above \$125,000. Without scarcely increasing their own permanent resources, those people expend proceeds from ceded and heirship lands, etc., probably \$175,000. These totals seem to indicate a "consumption" above production of some \$300,000 or if grouped into families of five, say \$300 per family. Expenditures from ceded lands must by its exhaustion soon cease. A state might be able to reduce the other items considerably but would have in hand a long list of non-competents.

Very respectfully
Matthew R. Derig
Teacher

I offer as reference if you desire
Hon. Robt. M. LaFollette
Hon. Irvin L. Lenroot
8 years U.S. Indian schools — Rosebud Res.

[#42]

(Minutes of Council of November 1, 1911)

MINUTES OF COUNCIL HELD BY JAMES MC-
LAUGHLIN, INSPECTOR DEPARTMENT OF THE IN-
TERIOR, WITH THE INDIANS OF ROSEBUD
AGENCY, SOUTH DAKOTA, IN REFERENCE TO THE
SALE AND DISPOSITION OF THE SURPLUS AND
UNALLOTTED LANDS OF THE ROSEBUD RESER-
VATION, AS CONTEMPLATED BY SENATE BILL
110, 62nd CONGRESS, 1st SESSION.

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Council convened at Rosebud Agency, S.D., at 3-35
P.M., November 1, 1911, with Superintendent J.B.
Woods and 85 male adult Indians of the reservation in
attendance, with Louis Roubidoux, Louis Bordeaux and
Frank Jannis, Interpreters.

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INSPECTOR MCLAUGHLIN: My friends, having
terminated our council relative to allotments to certain
Ponca Indians from the surplus and unallotted lands of
your reservation, I now submit to you another Bill which
was introduced in Congress April 6th last, providing for
opening the remainder of the surplus lands of your
reservation. This is the Bill referred to which I will now
read and explain to you.

Inspector McLaughlin here read and explained to the
Indians, Senate Bill 110, 62nd Congress, 1st Session, and
then said:

My friends: This Bill is similar in every respect to the
Act opening your Mellette County lands, except as to
boundaries, and having now explained to you the
provisions of this Bill, I am ready to hear from you
regarding same.

Every statement made by me and by your speakers in
this council is noted in shorthand by the stenographer
here, which shorthand notes will be transcribed in
typewriting and go forward to the Secretary with my
report, and you having been discussing this question
among yourselves since my arrival here last Saturday, you
are doubtless prepared to express yourselves understand-
ingly as to this proposed legislation, and I now desire [2]
to hear from you regarding the proposed opening of the
remainder of your surplus lands.

REUBEN QUICK BEAR: My friend, you have stated
that you want to open up Todd County and in that
particular I wish to say something. In this connection I
am going to prepare something. You tell the Indians to
wear Citizens' clothes. I travel among the white people
and see some of them and I see the way they live. I met a
man who had five cents. He took it out. I am going to
throw this up he said, heads I win, tails you lose. The way
you read that bill is the same thing. One way or another
we are going to loose the land. Anyway we would be the
losers and get very small money for the land. That is the
way I have said. Every time you come here we give you
the land, now we want to keep the land for the children
to come. In Tripp County we made in that treaty that
our children are entitled to some land. That is the way we
have said. We of the Black Pipe District are not going to
dispose of the land. We are not going to sell any land or
give any away, now we are going to keep the surplus land
for the generations to come. We are going to hold it fifty
years. We are going to get a patent for the land, about a
fifty year patent. Now I will tell you why we don't want
to sell any land or dispose of it. When the Lower Brules
first come over you wanted some land for them, and you
bought the bill out here and read it to us. We liked the
program and we all agreed to it. That is the time you said

that we are going to give our wives half a section of the land issued to the husbands and that they would get the benefits also, provided in Section 17 of the Act of March 2, 1889. When a young man come to be eighteen years of [3] age he would get the property also. In that way according to that bill we all signed it. Of course that was not the law but the Great Father simply told us so we signed the agreement. And in Gregory County again, the payment that was to be made we were all satisfied with, and therefore we all signed the agreement. You said they would pay out everything, but now they tie up the childrens money. And in Tripp County again. They made a treaty for that. They have said that before, but we have not received that payment yet. And in Mellette County again. We were going to sell the land, but they sent three men to see about timber and gold and iron and coal, and they selected three men to appraise the land for us. Now they don't state in the Act how we are going to get the money in that treaty and I don't know how we are going to get that money. We have no way to get that money. We want them to make an agreement with us as to how we are going to get that money. We want the Agent to be authorized to sign with us for the proceeds of Mellette County. That is one of the treaties that you made. Now we have a small reservation and we don't want to sell it or dispose of it in any form. We are recognized as Americans, people of the United States. Senator Gamble and other officials are after our lands all the time, but the money we have not received from the treaties that we have made I hope you will help us get it. Of course we are going to select a new President and Members of Congress next fall and if they will help us in that way we will help them out in our vote, those who tell us they will help us get the money. We are poor people and how are weing to help them with our votes if they don't [4] help us. My

friend, the Black Pipe District Indians object to the two bills you have presented to us today.

HOLLOW HORN BEAR: On the subject you have presented I will say something about it mys elf. I don't know how to farm very well and something happened to me which I will tell you about. I planted some potatoes my self and when I dug them up, the ground was frozen and all I got was peelings. The best substance of the potatoes was gone. I don't want to do that again. This potato crop was the same as Mellette County. Now you show me another proposition, this new one, and you don't show me any point how I am to get my money and how I am going to spend it. Anything that way pleases me. I am willing to sell but I have found nothing worth considering. I have been a party to all the treaties that have been made on this reservation. Whenever there is any treaty going on and I can see, where I can get money out of it, then I talk about it and accept it. That Ponca proposition I know will be all right and I know I can take that money and live, and my people and myself will have something to eat. On the other matter, The Todd County business, I wont make any proposition at all. I have been thinking that way when we had a large territory, and the Great Father has taken some of it off right along. I have thought that way and I have knelt down to them and asked them not to make me a prisoner. I used those words in Tripp County treaty. I live right here, born right here, but I am not here as a prisoner. The 1868 Treaty, a man, my father, made that treaty. I have not seen you fulfill that treaty of 1868 yet. There is some good laws in that treaty but I am not going to tell you because you know it all yourself. Here on [5] the reservation I don't make any big trouble at all. That is trouble about treaties. According to all the Agents, whenever a man has many friends he wants to adhere to the laws and in that way

retain their friendship. They used to try to blame us for what happened in Montana, they tried to blame us but we did not do it. What I mean to say is this. I have not seen anything come out of all the laws made on the reservation yet. Whatever land is left in Todd County, leave it alone, we want it ourselves. It appears that whatever suits the United States they put it in the agreement and never what we want. We have not seen anything that would benefit us Rosebud Indians in this Todd County treaty. But concurring in the provisions of the bill, which you have presented, would be like throwing our surplus land away. You can't do anything toward it therefore you leave it alone. In the other proposition about the Poncas, that is the kind of agreement I would make for my people. If the people beat me in that it is all the same. If I win I would have a little something to live on from it. My reasons for being willing to admit the Poncas was conditioned upon the fact that it would prevent the opening of the rest of the reservation lands, provided the Poncas would not be entitled to, nor receive any of our treaty funds. This is all I will say. We all love and respect you and the Indians do not blame you for anything that has happened in past legislation.

HIGH PIPE: I am going to say only two words to you my friend. Whatever surplus land we have got we don't want to give it away. You know us all here. We don't want to give it away.

[6] TODD SMITH: Whatever I say here about the proposition is all right and Senator Gamble will know it. Tell him that he wants to buy Todd County but Todd (Smith) won't sell it. Tell him that we have only a little land left and we expect children to be born and we want this land. You tell him if he lets Todd County alone, there are lots of voters if he want to be Senator again, and if he will quit Todd County we will vote for him. If

he don't do it, we will vote the other way and throw him away, and select a better man to take Senator Gamble's place.

JAMES STANDS FOR THEM: I am going to say two words to you. The people up in Black Pipe District tells me to come. The Poncas want to come on this reservation and I am opposed to it. Before when you came here I always helped you and aided you in your business. I just thought now that we never will live good. Now my friend, you know we always help you and I would now be willing to help you but I cannot help you. My friend, from this on, you go home without land, and I opposed to opening Todd County.

LOUIS BORDEAUX: My friend, you have come here again on account of the Todd County land and we are very glad to receive you as our friend. Before when you come for land I was always glad to help you because you are a friend of mine. We have given you three good counties of land. And this last county we have, there is very little good land left in it, but a large lot of Sand hills. Therefore we want to preserve this land for ourselves and we pray you for this. The people are still increasing and we want to save this land for them. We have given you three counties. This is our last chance and for the benefit of the people in the future we want you to help us to keep [7] it. That is the wish of my people and they told me to tell you that is the wishes of all. You tell my friend Senator Gamble, and he is a friend of mine. He is always getting up some bill on account of our land and then you are given the bills to carry over here to force through for them. We have got very little land left now. My friend, have pity on us and aid us to keep this land for our children. We wish to preserve this land, my friend, and every man here who has made a speech in opposition to it meant what he said. We have a great deal of trouble in

getting our payments from the proceeds of the lands already purchased from us. Therefore my people are afraid. They don't care about disposing of the little land they have left. My friend, you know all the people are represented here, and they represent what the people want who were left at home. I am an Indian and belong to the tribe and I can hear what they all say that they don't want to spare any more of their Todd County land. That is all I have to say and I shake hands with you for all the people with a good heart.

EUGENE LITTLE, CHAIRMAN OF THE ROSEBUD INDIAN BUSINESS COMMITTEE: When Mellette County was opened I blamed you a little about that. There used to be three-fourth consent of the people required to open our lands and anything regarding Indian matters. Only a few consented at the time they opened Mellette County, and I don't believe that is right. I know you are a Catholic. Whatever you do you do straight, because you are a Catholic you must live up to your faith and be straight. In the second place we don't want this Todd County opened up without three-fourths consent of the people. Whatever surplus land we have [8] in Todd County we want our future children to have it. The other speakers mentioned it and they are right. If you take this land what will our children that may be born do? How will they live? If you are going to take this land you might just as well send men here, who can cut off people heads, to cut off all the children's heads, for taking the land from them will be just the same. You must have pity on us because you are our neighbor. Don't take this land away without three-fourths consent.

CLARENCE WHITE THUNDER: Whenever we do anything that is not accomplished when we can do something else afterwards. When they fix the money question up all right then you can come back and talk to

us again. I will say that we will hold on to Todd County for fifty years. The next time the Great Father sends his message to Congress tell him to not mention Todd County. We will hold on to Todd County for fifty years.

CHARLES TACKETT: My friend, you have been here several times. You have mentioned about several counties. What I want to say the speakers have already said, but I want to say some little things. They speak about our surplus land a great deal. When the Government sent people here to allot the land, I was with them two years. I was the first person who took an allotment on this reservation. There were some people who were ready for allotment in certain places where they selected land, where the land was not surveyed, and whenever the survey was made they took their allotment and went home. I remember an Indian went to White River and the snow was so deep they did not allot any land. Some of them in that way died and never got any land. What are you going to do for them. Those who died before getting any land although they [9] had selected allotments. They died before the Government and Great Father got ready to give them the land. They died and did not get any land. That was under the Crook treaty, and all those who died during the allotment did not get any land and relatives are sorry about it and so am I. If you were going to investigate this matter you might find six or seven hundred who are entitled to land, who died while the allotment was going on. And I ask you to help us and look into it and see about those who are entitled to allotments. That is all I have to say and I want you to have pity on the people.

INSPECTOR MCLAUGHLIN: My friends: I have heard your speeches on the proposition which I submitted in reference to the opening of the surplus lands in Todd County. Notwithstanding that your speeches have

been in opposition to the opening, I must congratulate you upon the manner in which the council has been conducted. It has been made plain to me here today that the sentiment of the Indians of the reservation is very much opposed to the opening of the surplus lands in Todd County at the present time. All that you have said and all that I have said will appear in the minutes of our council which I will forward with my report so that the Department officials may know exactly how you feel in relation to the matter. The minutes, showing what has been said here, will be transmitted by the Secretary of the Interior to the Committees of Congress, and everything appearing in the council minutes will be considered in connection with the proposition of opening your surplus lands to settlement under the provisions of the bill which I have explained to you today. But bear in mind, my [10] friends, that the fact of your refusing to accept the provisions of this bill does not prevent the opening of your lands if Congress so determines. As I have told you before in my councils with you, a decision of the Supreme Court on January 5, 1903, determined that Congress has the power to legislate for the opening of Indian Reservation lands without consulting the occupants. But neither the Department officials or the members of Congress wish to force upon Indians, legislation of that kind arbitrarily, but always desire to have the matter submitted to the Indians and explained thoroughly to them before any final action is taken by Congress on bills of this character. My friends, you have been very reasonable in meeting the wishes of the Department and of Congress in the past, in the different propositions which I have submitted to you, and you have met the wishes of Congress so commendably in the past I believe such fact will be taken into consideration when this matter is being further considered. I fully

appreciate your feelings on this matter, knowing that your reservation, which was a very large one a few years ago, is now reduced to the limits of Todd County, and I can understand very well how you feel; that you are very desirous and anxious to retain this County intact. But should Congress conclude to enact legislation opening it, you must not blame me, for I will place the matter before the Department just as you have placed it before me today. This is all I deem necessary to say at this time, and I am glad to have met you people today and sorry that the weather has been so inclement and the distance so great as to have prevented many others from being present at this council. I feel very friendly toward you people and very much at home among you, because I regard the Indians of the [11] Rosebud Reservation as personal friends of mine, and one and all, and having placed this matter before you as plain as it was possible to present it, and believing that each and all of you understand the question very clearly, your non-concurrence, as voiced by your speakers, will be reported by me to the Department, and I shake hands with each and all of you and this council is now adjourned.

Council adjourned, sine die, at five thirty, P.M.

I hereby certify that the foregoing eleven typewritten pages is a transcript of shorthand notes taken by me in Council held by James McLaughlin, Inspector Department of the Interior, with the Indians of the Rosebud Reservation, South Dakota, on November 1, 1911.

/s/
Stenographer.

Rosebud, South Dakota,
November 3, 1911.

[#43]

(An act extending the time for payment by homesteaders on land in what was formerly a part of the Rosebud Indian Reservation)

[Act of Aug. 17, 1911 Ch. 22, Stat. 21]

Chap. 22. — An Act Extending the time of payment to certain homesteaders in the Rosebud Indian Reservation, in the State of South Dakota.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any person who has heretofore made a homestead entry for land in what was formerly a part of the Rosebud Indian Reservation, in the State of South Dakota, authorized by the Act approved March second, nineteen hundred and seven, may apply to the register and receiver of the land office in the district in which the land is located, for an extension of time within which to make payment of the amount that is about to become due, and upon the payment of interest for one year in advance, at five per centum per annum upon the amount due, and payment so extended may annually thereafter be extended for a period of one year in the same manner: *Provided,* That the last payment and all other payments must be made within a period not exceeding one year after the last payment is due; that all moneys paid for interest as herein provided shall be deposited in the Treasury to the credit of the Indians as a part of the proceeds received for the lands.

Sec. 2. That failure to make any payment that may be due, unless the same be extended, or to make any extended payment at or before the time to which such payment has been extended as herein provided, will forfeit the entry and the same shall be canceled, and any and all payments theretofore made shall be forfeited.

Sec. 3. That nothing herein contained shall affect any valid adverse claim initiated prior to the passage of this Act.

Approved, August 17, 1911.

[#44]

(Legislative history of S110 — a bill for the sale of surplus land in Todd County in the Rosebud Reservation.)

[49 Cong. Rec. 109 (1913)]

Rosebud Reservation: bills for sale of surplus and unallotted lands in (see bills S. 110*; H.R. 28606;

[49 Cong. Rec. 3 (1913)]

S.110 — To authorize the sale and disposition of the surplus and unallotted lands in Todd County, in the Rosebud Indian Reservation, in the State of South Dakota, and making appropriation and provision to carry the same into effect.

Reported with amendment (S. Rept. 1106), 2209. — Amended and Passed Senate, 4210.

[49 Cong. Rec. 2209 (1913)]

Mr. Gamble, from the Committee on Indian Affairs, to which was referred the bill (S. 110) to authorize the sale and disposition of a portion of the surplus and unallotted lands in Todd and Bennett Counties, in the Rosebud Indian Reservation, in the State of South Dakota, and making appropriation and provision to carry the same into effect, reported it with amendments and submitted a report (No. 1166) thereon.

[49 Cong. Rec. 4210 (1913)]

Rosebud Indian Reservation

Mr. Gamble. The junior Senator from Georgia withdraws his objection to Order of Business 1033, Senate bill 110, and I would be very glad to have it disposed of.

Mr. Bristow. That is a long bill, and a Senate bill. Why should we waste time on it?

Mr. Gamble. I should like to have it disposed of. It is in the usual form.

Mr. Bristow. We have been kept here a long time.

Mr. Smith of Georgia. It can be read very rapidly.

Mr. Gamble. It can be read rapidly because it is in the usual form.

The President pro tempore. The most of the bill has been read.

Mr. Gamble. I think the bill has been largely read.

The bill (S. 110) to authorize the sale and disposition of a portion of the surplus and unallotted lands in Todd and Bennett Counties, in the Rosebud Indian Reservation, in the State of South Dakota, and making appropriation and provision to carry the same into effect, was considered as in Committee of the Whole.

The bill had been reported from the Committee on Indian Affairs with amendments.

The first amendment of the Committee on Indian Affairs was, in section 1, page 2, line 15, after the word "Provided," to strike out "That any Indians to whom allotments have been made on the tract to be ceded may, in case they elect to do so before said lands are offered for sale, relinquish same and select allotments in lieu thereof on the diminished reservation: *And provided further,*" so as to read:

That the Secretary of the Interior be, and he is hereby, authorized and directed, as hereinafter provided, to sell

and dispose of all that portion of the Rosebud Indian Reservation in the State of South Dakota lying and being within the counties of Todd and Bennett, described as follows, to wit: Commencing a point on the boundary line between the States of South Dakota and Nebraska where the third guide meridian west intersects the same; thence north on said guide meridian to a point where the same intersects the township line between townships 39 and 40; thence west on said township line to a point where the same intersects the boundary line between the Rosebud and Pine Ridge Indian Reservations; thence south on said boundary line between said reservations to a point where the same intersects the State line between the States of South Dakota and Nebraska; thence east along said State line to the place of beginning, except such portions thereof as have been or may be hereafter allotted to Indians or otherwise reserved and except lands classified as timber lands; *Provided*, That the Secretary of the Interior may reserve such lands as he may deem necessary for agency, school, and religious purposes, to remain reserved as long as needed and as long as agency, school, or religious institutions are maintained thereon for the benefit of said Indians: *And provided further*, That the Secretary of the Interior is hereby authorized and directed to issue a patent in fee simple to the duly authorized and directed to issue a patent in fee simple to the duly authorized missionary board, or other authority, of any religious organization heretofore engaged in mission or school work on said reservation for such lands thereon (not included in any town site hereinafter provided for) as have heretofore been set apart to such organization for mission or school purposes.

The amendment was agreed to.

The next amendment was, in section 3, page 4, line 11, after the word "prescribe," to strike out "and he is here-

by authorized to set apart and reserve for school, park, and other public purposes not more than 10 acres in any town site, and patents shall be issued by the Secretary of the Interior for the lands so set apart and reserved for school, park, and other public purposes to the municipality legally charged with the care and custody of lands donated for such purposes, upon receiving satisfactory evidence that said towns have been duly incorporated"; in line 22, after the word "direct," to strike out ", and he shall cause not more than 20 per cent of the net proceeds arising from such sales to be set apart and expended under his direction in the construction of schoolhouses or other public buildings or in improvements within the town sites in which such lots are located"; and on page 5, line 3, after the word "aforesaid," to strike out "less the amount set aside to aid in the construction of schoolhouses or other public buildings or improvements," so as to make the section read:

Sec. 3. That before any of the land is disposed of, as hereinafter provided, and before the State of South Dakota shall be permitted to select or locate any lands to which it may be entitled by reason of the loss of section 16 or 36, or any portion thereof, by reason of allotments thereof to any Indian or Indians, the Secretary of the Interior is authorized to reserve from said lands such tracts for town-site purposes as in his opinion may be required for the future public interests, and he may cause same to be surveyed into lots and blocks and disposed of under such regulations as he may prescribe. The purchase price of all town lots sold in town sites, as hereinafter provided, shall be paid at such time and in such installments as the Secretary of the Interior may direct. The net proceeds derived from the sale of such lots and lands within the town sites as aforesaid shall be credited to the Indians, as hereinafter provided.

The amendment was agreed to.

The next amendment was, in section 7, page 8, line 11, after the word "Indians," to strike out "shall be at all times subject to appropriation by Congress for their education, support, and civilization" and insert "including the interest thereon, may be expended for their benefit or distributed per capita, in the discretion of the Secretary of the Interior," so as to make the section read:

Sec. 7. That from the proceeds arising from the sale and disposition of the lands aforesaid, exclusive of the customary fees and commissions, there shall be deposited in the Treasury of the United States, to the credit of the Indians belonging and having tribal rights on the said reservation, the sums to which the said tribe may be entitled, which shall draw interest at 3 per cent per annum; that the moneys derived from the sale of said lands and deposited in the Treasury of the United States to the credit of said Indians, including the interest thereon, may be expended for their benefit or distributed per capita, in the discretion of the Secretary of the Interior.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill to authorize the sale and disposition of the surplus and unallotted lands in Todd County, in the Rosebud Indian Reservation, in the State of South Dakota, and making appropriation and provision to carry the same into effect."

[#44A]

(Senate report to accompany S. 110)

[S. Rep. No. 1166, 62d Cong. 3d Sess. 1-5 (1913)]

Report No. 1166.

SALE OF SURPLUS LANDS IN TODD COUNTY IN
THE ROSEBUD INDIAN RESERVATION, S. DAK.

January 29, 1913.—Ordered to be printed.

Mr. Gamble, from the Committee on Indian Affairs,
submitted the following

REPORT.

[To accompany S. 110.]

The Committee on Indian Affairs, to whom was referred the bill (S. 110) to authorize the sale and disposition of a portion of the surplus and unallotted lands in Todd and Bennett Counties, in the Rosebud Indian Agency, in the State of South Dakota, and making appropriation and provision to carry the same into effect, having had the same under consideration, beg leave to recommend that the said bill do pass, with the following amendments:

Amend the title of the bill to read: "A bill to authorize the sale and disposition of the surplus and unallotted lands in Todd County, in the Rosebud Indian Reservation, in the State of South Dakota, and making appropriation and provision to carry the same into effect."

Page 2, line 10, after the word "Provided" in said line, strike out the word "That" and down to and including the word "further" in line 15.

Page 4, line 6, strike out all in said line after the word "prescribed" and down to and including the word "incorporated" in line 14.

Page 4, line 17, after the word "direct," strike out all the remainder of said line 17 and lines 18, 19, 20, and 21.

Page 4, line 23, after the word "aforesaid," in line 23, strike out the remainder of said line and down to and including the word "improvements" in line 25.

Page 8, lines 5 and 6, strike out lines 5 and 6 and insert in lieu thereof the following:

including the interest thereon, may be expended for their benefit or distributed per capita, in the discretion of the Secretary of the Interior.

Page 8, line 24, strike out the word "twenty-five" and insert in lieu thereof "thirty."

As shown by the report of the Secretary herewith submitted, the area proposed to be opened to settlement embraces 889,403 acres. The amount allotted to the Indians within the limits of Todd County aggregates 636,300 acres. The amount reserved for school, agency, missionary and tribal purposes aggregates 40,302 acres. The estimated amount of school lands within the area to be opened and conveyed to the State of South Dakota is 50,880 acres. The area estimated to be disposed of to homestead settlers, over and above the amount provided for, aggregates 161,921 acres.

It is the understanding of your committee that the allotments have been made to all Indians on the reservation. Provision is made by the bill for the allotment of any minor child born subsequent to the completion of the allotments provided for and 60 days prior to the date set by the proclamation for the entry of the said surplus lands proposed to be opened.

In the opinion of your committee the surplus and unallotted lands are unnecessary for the use of the

Indians, and the opening of the reservation will result in a large increase in the settlement and development of that part of the State and will, to a very large extent, enhance the value of the holdings of the Indians. Your committee regards it as of the highest importance, not only to the Indians themselves but to the people of the State and to the General Government, that all the surplus and unallotted lands should be opened to settlement at the earliest practicable date. The bill provides that prior to the issuance of the proclamation opening the lands to settlement the Secretary of the Interior shall cause allotments to be made to the Indians and minors belonging to or holding tribal relations with the Indians upon the reservation who have not heretofore been allotted.

Sections 16 and 36 of the lands in each township are not to be disposed of, but are reserved for the use of the common schools of the State, and these lands are to be paid for by the Government in conformity with the provisions of the act admitting the State of South Dakota into the Union. The Secretary of the Interior is authorized to reserve such lands as are necessary for agency, school, and religious purposes in conformity with the practice of the Government in measures of this character.

The lands to be opened are to be inspected, appraised, and valued by a commission for that purpose appointed by the President, which appraisal is subject to the approval of the Secretary of the Interior. The lands to be opened are reserved for homesteads, and one-fifth of the price so fixed for the land is to be paid upon entry thereof and the balance in five equal installments, the first within two, and the remainder in three, four, five, and six years, respectively.

The Secretary of the Interior is also authorized to reserve from said lands such tracts for town-site purposes

as in his opinion may be required for the future public interests.

The moneys realized from the sales of the town sites are to be applied to the benefit of the tribe. The moneys derived from the sale of the lands as well as the town sites are to be deposited in the Treasury of the United States to the credit of the tribe, and the same shall draw interest at the rate of 3 per cent per annum, and these moneys shall be expended for the benefit of the tribe under the direction of the Secretary of the Interior.

Upon the recommendaton of the department, an additional section has been added to the bill which prohibits the introduction of intoxicating liquors upon the lands to be opened for a specified period. It is felt by your committee that such a prohibition would serve as a protection, especially to the Indians, and their interests would be highly conserved if the use of intoxicants were prohibited. This is a matter of the highest concern, not only to the Indians themselves, but to the General Government and to the pople of the State, that the Indians should be safeguarded as much as possible from the evils resulting therefrom.

Although Congress has full power to enact legislation of this character without the consent of the Indians, it was felt the Indians should be fully advised as to the provisions of the epending measure and their views should be asked in regard thereto. The bill in question was submitted to the Indians of the reservation by a competent and experienced Indian inspector and the wishes of the Indians were sought to be met in a fair and just spirit.

Your committee regarded the method proposed under the provisions of the bill for the appraisement and classification of the lands as fair, just, and equitable, both as to the Indians themselves as well as to the prospective

settlers, and they do not look with favor upon the change suggested in this respect by the report of the department thereon. Other lands upon this reservation were appraised and classified in the manner proposed in the pending bill, under which they were heretofore opened to settlement, and the result of such appraisement and classification was fair, just, and satisfactory. The cost thereof was limited and aggregated substantially 1 cent per acre of the lands so appraised and classified. Your committee does not regard such appraisement and classification as any serious burden upon the Indian, and favor following the rule heretofore adopted rather than fixing without definitie knowledge an arbitrary price upon the lands, as suggested in the recommendation of the department.

The communication of the Secretary of the Interior, reporting upon this bill, is herewith submitted and made a part of this report.

Department of the Interior,
Washington, May 19, 1911.

Hon. Robert J. Gamble,
Chairman Committee on Indian Affairs, United States Senate.

Sir: I have the honor to acknowledge the receipt, by your reference, of a copy of Senate bill 110, Sixty-second Congress, first session, providing for the disposal of the surplus lands within the Rosebud Reservation, S. Dak.

The department is not in a position to submit a report on the merits of this bill, or to speak with regard to the wishes of the Indians of the Rosebud Tribe as to this matter. When Inspector McLaughlin has ascertained the wishes of the Indians, I shall take pleasure in submitting a full report as to their views of the pending bill, together

with such recommendations as the circumstances may require.

Respectfully,

Frank Pierce, *Acting Secretary.*

Department of the Interior,
Washington, April 30, 1912.

Hon. Robert J. Gamble,
Chairman Committee on Indian Affairs, United States Senate.

Sir: I have the honor to refer to departmental letter of May 19, 1911, regarding Senate bill 110, Sixty-second Congress, first session, providing for the disposal of the surplus lands within the diminished Rosebud Reservation, S. Dak.

Under departmental instructions of May 22, 1911, Inspector James McLaughlin, on November 1, 1911, met representative Indians of the Rosebud Tribe in council assembled for the purpose of discussing with them the pending bill. While he found the Indians somewhat opposed to opening the diminished reservation at this time, as the inclosed copies of the inspector's report and the council proceedings will show, yet the inspector points out that:

"The Rosebud Indians are well disposed and will, I am confident, acquiesce in the opening of their surplus lands under the provisions of the said Senate bill, which, if enacted into law, may, on the whole, be for their best interests, * * *."

The department agrees with the views of the inspector as indicated in the foregoing, and believes that, on the whole, it will be advantageous to the Rosebud Indian Tribe at large to dispose of the surplus lands within their diminished reservation.

For the information of your committee, however, it may be pointed out that by successive openings within the past few years this reservation has been successively reduced to less than one-fourth of its original area. Gregory County was opened in 1904, under the provisions of the act of April 23, 1904 (33 Stat. L., 254); Tripp County, in 1908, under the act of March 2, 1907 (34 Stat. L., 1230); and Mellette County will be opened during the present year under the act of May 30, 1910 (36 Stat. L., 448), the President's proclamation therefor having been issued on June 29, 1911.

It may be said also that upward of 7,000 Indians within this reservation have previously been allotted approximately 1,679,000 acres of land, of which 636,300 acres fall within Todd County—the diminished reservation. From the inspector's report, it appears that Todd County comprises 889,403 acres. Deducting from this the 636,300 acres allotted and 40,302 acres reserved for school, agency, missionary, and tribal purposes, leaves only 212,801 acres unallotted and unreserved. Of this, it is estimated that 50,880 acres will pass to the State of South Dakota as "school lands" should the bill become a law. There would remain, therefore, approximately 161,921 acres to be disposed of to actual homestead settlers. The special allotting agent, who has been working within this reservation for a number of years and who is therefore familiar with local conditions, advised the inspector, as shown by the report herewith, that not to exceed 50,000 acres of good land remain undisposed of within this reservation and that the greater part of the surplus lands consist of sand hills and barren buttes of but little value.

It appears further from the inspector's report that by act of March 2, 1911, the State Legislature of South Dakota so changed the county boundary lines as to cause

all lands within the diminished Rosebud Reservation to fall within Todd County, and that no part of this reservation now lies within Bennett County. In the caption of the bill the words "of a portion" could well be eliminated and the words "Todd and Bennett Counties" changed to read "Todd County."

If the bill becomes a law, it will provide for opening all of the lands now constituting the diminished Rosebud Reservation, and there will, therefore, remain no further diminished reservation. Any allottee of this tribe who desires so to do may relinquish his allotment and take other lands in lieu thereof under authority found in the acts of October 19, 1888 (25 Stat. L., 611), and March 3, 1909 (35 Stat. L., 784). Therefore the clause on page 2 of the bill beginning with the word "that" in line 10, down to and inclusive of the word "reservation" in line 14, should be eliminated; also the words "*And provided further,*" on page 2, lines 14 and 15.

Section 3 provides for the establishment of town sites and requires that not to exceed 20 per cent of the money derived from the sale thereof shall be expended in the construction of schoolhouses or other public buildings. To facilitate educational work among the Indians and to relieve the Government from the expense connected therewith as much as possible, the incorporation of the following in the form of an amendment to section 3 is respectfully suggested:

Strike out the period after the word "located," in line 21, page 4, inserting in lieu thereof a colon and "*Provided*, That all children of school age and of Indian parentage shall be admitted at all times to the public schools within said town sites on an equal footing with all other children admitted to said schools."

This department has heretofore suggested to your committee that, in its opinion, a less expensive method of

disposing of surplus lands within Indian reservations can be found than by classification and appraisalment by a commission of highly paid appointees. See departmental letter of April 5, 1910, reporting on Senate bill 3284, Sixty-first Congress, second session, incorporated in Senate Reports Nos. 590 and 591, same session.

The lands on this reservation were appraised at \$6 per acre for agricultural lands of the first class, \$4 per acre for agricultural lands of the second class, and \$2.50 for grazing lands. It is believed that these figures may properly be adopted for the purposes of disposing of the remaining lands, and is suggested that for sections 4 and 5 of the bill there be substituted the following:

"Sec. 4. That the price of said lands entered as homesteads under this act shall be as follows: Upon all land entered or filed on within three months after the same shall have been opened to settlement and entry, \$6 per acre; upon all lands entered or filed on after the expiration of three months and within six months after the same shall have been opened to settlement and entry, \$4 per acre; and after the expiration of six months after the same shall have been opened to settlement and entry the price shall be \$2.50 per acre, and after the expiration of three years after the same shall have been opened to settlement and entry the lands remaining unentered shall be disposed of under such rules and regulations as the Secretary of the Interior may prescribe without regard to any of the prices per acre designated herein."

Should this amendment be adopted, the remaining sections should be renumbered accordingly and the last proviso of section 6, lines 16 to 20, page 7, should be eliminated from this bill.

It is noted that section 7 provides that the net proceeds derived from the sale of these lands shall be deposited in the Treasury of the United States to the

credit of the said Indians and "shall be at all times subject to appropriation by Congress for their education, support, and civilization."

Indian tribal moneys in the Treasury of the United States are at all times subject to disposition by Congress. The necessity, therefore, for the language quoted above is not apparent. Before any expenditure could be made therefrom, additional legislation would be necessary. Frequently this is delayed. Emergencies may arise that demand prompt and speedy adjustment. In some cases the delay incident to procuring congressional action may work untold hardship, if not prove disastrous. Discretion has heretofore been vested in this department to expend Indian tribal moneys received from the sale of surplus lands for the benefit of the Indians. See act of March 22, 1906 (34 Stat. L., 80), Colville Reservation; act of April 21, 1906 (34 Stat. L., 124), Lower Brule Reservation; act of May 29, 1908 (35 Stat. L., 460), Standing Rock and Cheyenne River Reservations. Others could be cited.

Accordingly, it is respectfully recommended that a comma be inserted after the word "Indians" on line 4, page 8, of the bill; that lines 5 and 6 be eliminated and the following substituted therefor:

"Including the interest thereon, may be expanded for their benefit, or distributed per capita, in the discretion of the Secretary of the Interior."

Section 8 of the bill provides that the lands granted to the State of South Dakota shall be paid for at the rate of \$2.50 per acre, and section 9 appropriates \$125,000 for this purpose. The inspector's report indicates that there are upward of 50,280 acres of land in sections 16 and 36 in Todd County within the diminished reservation. At \$2.50 per acre this amounts to \$127,200. To meet any discrepancy that might arise as to acreage, it is suggested that the word "twenty-five," in line 24, page 8, section 9, be changed to "thirty."

In this connection, however, it may be said that the department is of the opinion that \$2.50 per acre is but a comparatively small price as a rule to pay the Indians for lands granted within their reservations to States for school purposes. In this instance, because of the character of the lands that will remain after allotments are made, this price is probably adequate.

The words "not exceeding two sections in any one township" should be inserted in section 8 of the bill after the word "appropriated" in line 18, page 8.

Some limit should be fixed on the lands within any one township which the States might acquire as lieu selections, in case the original sections 16 and 36 or parts thereof are lost by reason of allotment or other disposition. Otherwise the States might acquire a large quantity of land in contiguous tracts to the exclusion of prospective settlers.

If the several amendments herein suggested are adopted, the words "making the appraisalment and classification provided for herein," in lines 4 and 5, section 9, page 9, should be stricken out and the following substituted: "carrying out the provisions of this act."

Previous examination by the Geological Survey enable that bureau to certify that there are no minerals of economic importance within the Rosebud Reservation, and section 13 of the act of June 25, 1910 (36 Stat., 855-859), is amply sufficient to enable this department to conserve any power-site or reservoir possibilities that may exist there.

Very respectfully,

Samuel Adams,
First Assistant Secretary

[#45]

(Letter to Senator Gamble from the Secretary
of the Interior concerning S. 110.)

Land-Allotments 42264-1911 99740-1911

42264-1911

99740-1911

J T R Senate Bill 1

Senate Bill 110,
62nd Congress, Rosebud.

Hon. Robert J. Gamble,
Chairman, Committee on Indian Affairs,
United States Senate.

Sir:

I have the honor to refer to Departmental letter of May 19, 1911, regarding Senate Bill, No. 110, 62nd Congress, First Session, providing for opening all surplus lands within the diminished Rosebud Reservation, South Dakota.

Inspector James McLaughlin met representatives of the Rosebud Indians on November 1, 1911, for the purpose of discussing with them the pending bill. He found the Indians decidedly opposed to the bill, principally because by successive openings within the past few years their reservation has been reduced to less than one-fourth of its original area. Gregory County was opened in 1904, under the Act of April 23, 1904 (33 Stats. L., 254); Tripp County in 1909, under the Act of March 2, 1907 (34 Stats. L., 1230), and Mellette County will be opened in 1912, under the Act of May 30, 1910 (36 Stats. L., 448); the President's proclamation therefor having been issued June 29, 1922. This leaves within the diminished reservation at this time the lands in Todd County only, which, from the Inspector's report (copy enclosed), contains only 889,403 acres, of which 636,300 acres have

heretofore been allotted and 40,302 acres reserved for school, agency, missionary and tribal purposes.

This would leave only 212,801 acres unallotted and unreserved, of which, it is estimated, 50,880 acres would pass to the State of South Dakota as "school lands" should the bill become a law. There would remain, therefore, approximately 161,921 acres to be disposed of to homestead settlers.

The Special Allotting Agent who has been working within this reservation for a number of years, and, therefore, familiar with local conditions, advises the Inspector that not to exceed 50,000 acres of good land remain undisposed of within this reservation, and that the greater part of the surplus lands consists of sand hills and barren buttes of but little value.

In view of the successive reductions made in this reservation during the past few years, the fact that the Indians are decidedly opposed to opening the diminished reservation at this time and that there will be but little desirable land to place on the market, should the bill become a law, I have the honor to recommend that no further action be had on the bill at this session of the Congress. To accede to the wishes of the Indians at this time would but promote a more kindly spirit among them and greatly facilitate administrative action of their affairs.

Respectfully,

Secretary.

[#45A]

(Letter dated April 26, 1913 from Superintendent, Rosebud Indian Agency to CIA)

Sir:

Replying to your letter of April 11, in relation to application of A. J. Wilcox, Attorney at Law of Colome for establishment of headquarters for Isaac Bettelyoun two days in the week in his town, will say that at the present, I am unable to recommend compliance with his request. Where are but few Indians living in the vicinity of Colome, and those that do can as easily go to Mr. Bettelyoun's residence to transact their business. I know of no good reason why I should recommend one of our Farmers to establish an office in any town. The only thought that would prompt the suggestion would be that of endeavoring to increase the trade in the town among our Indians. I believe that the more business our Indians have in town and the oftener they are there is an injury to them. They get into the habit of loafing, patronizing Pool Halls, besides too often indulging their appetite with liquor. However in this connection, I wish to say that the reputation of Colome as a good clean town, is excellent, and I do not wish to reflect upon the town or living in it, in this letter, because I wish my statements in a general way to apply to all towns.

About three years ago our Issue Station or rather the House for the Farmer, burned, and since that time it is a serious problem to know what to do in this District. The Issue Station is situated on Big White River now and is very inaccessible to get to our Issue Station, since the Home-steaders commenced to fence their farms, and this is what I meant when I said in my letter of October 16th, that I would reply further to your letter of October 12th. I want to make a recommendation relative to rebuilding

our Issue Station, but I want to be sure that I make it right so that it will do the most good to the greatest number. The Little Hamlet or the town of Hamil, which is located on the government town site, has been making a splendid effort to have the Issue Station rebuilt on the East 80 of the quarter reserved for the government town site. If this could be done, it would be the most central location that I could think of.

The Indians in this District live along the Big White River and in what is known as Bull Creek, and would be about the same distance from this location. The only objection one could raise to this location would be, they are trying to build a town here, and no doubt a saloon would be in close proximity to our Issue Station, where the Indians have to come on all business in connection with the Farmer. I have to the best of my ability, marked the enclosed Map, showing the approximate number of Indians, together with the allotments and acreage contained therein, in all of our Districts. While this information is not absolutely correct still it is near enough to form a good idea relative to comparing our Districts.

In Ponca District there are 905 allotments in Tripp County aggregating 144,800 acres. About one-fourth of these allotments belong to Indians in Ponca District. While the balance are largely owned by Indians located in Todd County. The Farmer at the Ponca Issue Station has looked after the allotments and Indians in Gregory County also, and has a few over 500 Indians to look after. In the Big White River District Mr. Bettelyoun, the Farmer, has about 1,700 allotments aggregating about 272,000 acres to look after as his District now stands. A great many of his allotments also belong to Indians in what used to be Meyer County, now Mellette, and Todd Counties. He has about the same number of Indians to look after that are located in Ponca District.

The Bull Creek District under Mr. Fihn as a farmer has about 1,889 allotments or 302,430 acres with a few over 800 Indians to look after. You will note that this District has more Indians and more allotments to look after than either of the other two. Still it is more compact and can more easily be looked after by Mr. Fihn than either of the other two. Again the allotments do not rent so readily in this District as in the first two mentioned. The Little White River District has about 968 allotments or 154,880 acres with a few over 500 Indians to look after. While the Black Pipe District has about 981 allotments aggregating 156,560 acres with a few over 500 Indians to look after.

These two Districts are the most troublesome of any of the Districts on the Reservation. The Bad Lands are located largely in these Districts which makes it difficult to go from place to place on account of the bad roads. The Cut Meat District has about 1,332 allotments with 299,120 acres, and a few over 1,000 Indians to look after. While it seems to be a large District, still there is but very little leasing of our Indian lands or allotments, it being in the closed portion of our Reservation, and the allotments are more compact with small farms in the District. The Agency has some over 1,200 Indians to look after, and is one of the largest Districts, but the farmer is assisted materially by being located in the Agency.

As time rolls on the work of looking after the allotments in Tripp County, will be largely decreased, for the reason that over 75% of our land sales have been in this Country. Hence, leasing in the future will be largely decreased. With Mr. Bettelyoun's present location on Section 1. Township 99, Range 76. He could look after that portion of the Ponca District located in Tripp County, in all probability as easily as can the farmer from Ponca Issue Station, but he is residing on his own farm, using

his own buildings for this work. Before he was appointed, to this position we were paying \$25.00 house rent in Winner for Mr. Mosier, and after furnishing him with a government team, it was going to cost us \$25.00 per month additional for stable room. Hence, the appointment of Mr. Bettelyoun is at the present time saving \$50.00 per month for rent, but this cannot continue for all time to come. But something will have to be done relative to either building on our old Issue Station on Big White River or some other central location.

Considering all things as they stand, and further that Colome is not within the boundaries of Big White River District. I do not feel like recommending the compliances with Mr. Wilcox's application.

Very respectfully,

Superintendent.

[#45B]

(Excerpts from letter dated September 18, 1913
from the Superintendent, Rosebud Indian Agency to
the CIA)

Sir:—

In answer to Education-Employees BCH dated September 13, 1913, calling for the names of the teachers and housekeepers at the various Day Schools in this jurisdiction, I am reporting the following:

Ironwood Day School

* * *

Spring Creek Day School

* * *

Agency Day School

* * *

Cut Meat Day School

* * *

Upper Cut Meat Day School

* * *

Lower Cut Meat Day School

* * *

He Dog's Camp Day School

* * *

Red Leaf Day School

* * *

Blackpipe Day School

* * *

Corn Creek Day School

* * *

Ring Thunder Day School

* * *

Pine Creek Day School

* * *

Little White River Day School

* * *

Oak Creek Day School

* * *

White Thunder Day School

* * *

Little Crow's Camp Day School

* * *

Whirlwind Soldier Day School

* * *

Milk's Camp Day School

* * *

Bull Creek Day School

* * *

Big White River Day School

* * *

White River Day School

* * *

White Lake Day School

[#46]

(Legislative history of H.R. 28606, the House of Representatives companion bill to S. 110 — a bill for the sale of surplus land in Todd County in the Rosebud Reservation.)

[49 Cong. Rec. 109 (1913)]

Rosebud Reservation: bills for sale of surplus and unallotted lands in (see bills S. 110*; H.R. 28606)

[49 Cong. Rec. 60 (1913)]

H.R. 28606 — To authorize the sale and disposition of a portion of the surplus and unallotted lands in Todd County, in the Rosebud Indian Reservation, in the State of South Dakota, and making appropriation and provision to carry the same into effect.

Mr. Martin of South Dakota; Committee on Indian Affairs, 2525.

[49 Cong. Rec. 2525 (1913)]

By Mr. Martin of South Dakota: A bill (H.R. 28606) to authorize the sale and disposition of a portion of the surplus and unallotted lands in Todd County, in the Rosebud Indian Reservation, in the State of South Dakota, and making appropriation and provision to carry the same into effect; to the Committee on Indian Affairs.

[#47]

(Legislative history of H.R. 28778 — a bill to amend the Act of May 30, 1910.)

[49 Cong. Rec. 109 (1913)]

Rosebud Reservation: bill for disposition of proceeds of sales of surplus and unallotted lands in (see bill H.R. 28778).

[49 Cong. Rec. 64 (1913)]

H.R. 28778 — To amend an act approved May 30, 1910, entitled "An act to authorize the sale and disposition of a portion of the surplus and unallotted lands in Mellette and Washabaugh Counties, in the Rosebud Indian Reservation, in the State of South Dakota, and making appropriation and provision to carry the same into effect."

Mr. Martin of South Dakota; Committee on Indian Affairs, 3305.

[49 Cong. Rec. 3305 (1913)]

Public Bills, Resolutions, and Memorials

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

* * *

Also, a bill (H.R. 28778) to amend an act approved May 30, 1910, entitled "An act to authorize the sale and disposition of a portion of the surplus and unallotted lands in Mellette and Washabaugh Counties in the Rosebud Indian Reservation, in the State of South Dakota, and making appropriation and provision to carry the same into effect"; to the Committee on Indian Affairs.

Land-Allotments
55184-1913

Messrs. Raymond J.B. Smith, et al.,
Through Supt., Rosebud School.

The Office is in receipt of your petition dated March 7, 1913, addressed to the President, requesting him to veto H.R. 28606, 62nd Congress, which contemplated the opening of Todd County, South Dakota, within the Rosebud Indian Reservation.

Respectfully,
(Signed) C.F. Hauke
Second Assistant Commissioner.

Department of the Interior
General Land Office
Washington
May 1, 1913

(Signed) Frank H. Dowd
Chief Clerk.

Dear Sir:—

We, the undersigned Sioux Indians of Todd County, S.D., earnestly petition you to veto H.R. 28606 (a bill by Mr. Martin of South Dakota) to open for settlement the unallotted lands in Todd County, S.D. This bill has been rushed through Congress without the knowledge or consent of a great majority of the Indians of this Reservation.

Benjamin B. Smith
 Mitchell D. Brown
 Benjamin Stead
 Mary Ann Smith
 John Keep the Whiting
 Schurzmann
 St. Roubidoux
 James D. Outrage
 Rufus C. E. E. E. E.
 John Fass B. B.
 Jackson Smith
 For Larrie

Land-Allotments
48744-1913

P.R.S. 5595

Opening Rosebud Reservation.

Mr. Samuel J. Bordeaux, et al.,
Rosebud, South Dakota.

My Friends:

I have received your letter without date, in which you protest against the opening of the surplus lands within the diminished part of the Rosebud reservation, as proposed in H.R. Bill 28606, 62nd Congress, 3rd Session, and set forth your reasons therefor.

As this bill was not enacted during the last session of the Congress, no further action thereon will be taken. However, it is probable that similar legislation will be introduced during this or some subsequent session of the present Congress. Should such legislation be introduced,

your protest will be given careful consideration in connection with the Department's report thereon.

Respectfully,

(Signed) Lewis C. Laylin
Assistant Secretary.

Rosebud Agency, S.D.

The Hon. Sec. of the Interior

Sir.

As regards the bill to sell the surplus land in Todd Co. S.D. introduced by Rep. Martin of S.D. we respectfully request that you will use your influence to have this bill held up until you can have report made to you by a competent and disinterested officer of your department. When we say disinterested we mean a man who is not a resident of S.D.

The Indian Office seems to be under the impression that we are making great strides in farming, when the fact is that we live in a country subject to summer drouth, where the best kind of white farmers fail to get more than one crop in three years. The very best farming land that was in the Rosebud Reservation we gave up when the Counties of Tripp and Gregory were opened to settlement and on two thirds of the allotments in Todd Co. a man would starve to death if he tried to live by farming alone. Our country however is a fine stock country and if a considerable portion of our funds was invested in cattle for us and the fence which extends two thirds of the way around Todd Co. completed and proper supervision given, we could with gardening make a living but if this bill to sell our surplus land in Todd Co. becomes a law and Todd Co. opened The State Herd Law takes effect that is those white settlers who would

come in will not have to fence and could seize any stock trespassing, for damages. That would entirely kill the stock industry. To read Mr. Martin's bill one would think that a large amount of land would be available for settlers while the fact is that after the allotment is completed there will not be 150 quarter sections vacant and these would consist of hills ravines and bad lands valuable to us but useless to settlers. As things are now the land of deceased Indians is sold and the white men who buy and come among us fence their land and give us no trouble, in fact we are on the best of terms with these men and these men know that to open Todd Co. means ruin to us and will depreciate the value of inherited land so that it could not be sold at any price, for whence would come the funds to pay for a County organization. We conclude by stating that no one is in favor of this opening except politicians of S.D. and a few Indians and mixed bloods who have been promised jobs and one white man who owns a farm in Todd Co. is a partner in a store there and who has been for sometime past trying to induce a Town Site Company to start a town close by his place.

We would also state that Inspector McLaughlin of your department is better acquainted with conditions here than any man we know of and we have great confidence in his judgment. We would like you to order the allotment completed which can be done by the present officials without additional expense and then to send some one to report upon the extent and value of the residue.

Samuel J. Bordeaux

Chas. Wright

Paul Dorian (his mark)

David Dorian

Andrew Night Pipe

Paul Yellow Hawk

Arrow Sides

Stephen Brave Bird (his mark)

William Dillon

Big Tail Zelota (his mark)

Chas. Standing Cloud

Charley Plenty Horse

Geo. Gunhammer

Chauncey Eagle Horn

John Columbe

Alfred Night Pipe

Rosebud Agency, S.D. March 26, 1913

Hon. Commissioner of Indian Affairs

Washington, D.C.

Dear Sir:—

We, the undersigned Indians of Todd County, S.D. respectfully protest against the proposed opening of this County to settlement. We protest against opening of our last remaining portion of our once large Reservation for the following reasons:

1. We have already been deprived of the Counties of Gregory, Tripp and Melette within the last few years none of which we have received payment in full for yet. There is still plenty of land opened to entry for settlers in these Counties already opened.

2. We want to keep what little unallotted land there is in Todd County, that is of any value, for our children who are yet unallotted and for those who will be born in the near future, as we realize that when this County is opened for settlement that all our children born afterward will be homeless, a condition of affairs that will make in time a people without a home.

3. We believe the only persons who really desire this County to open to settlement are white men with a few Indians who are influenced by these same white men, and they want it opened for their own private benefit and not to benefit the great majority of the Indians.

4. We think that the great body of Indians interested should be committed and their wishes ascertained in re-

Thomas Greenwood,
 William Little Whitland,
 Jacob Eaglehawk ^{his} mark
 Little Whitland ^{his} mark
 William Perryman
 K. I. L.
 Alice Whitland
 Nicole Peters or Williams
 William Medicine Eagle.
 George R. Bear Horse.
 Mary Dillon

William Eaglehawk
 Louis W. Sullivan
 Paul Yellow Hawk
 Big Soldier ^{his} mark
 Chief Muggins ^{his} mark

Charles Lawrence.
 H. M. Wright
 Albert Ben Bird
 Early Plenty Horse
 Paul Gordon ^{his} mark
 James H. H. ^{his} mark
 John W. Wright
 James W. Wright
 John W. Wright
 John W. Wright
 David Dorman

To The Commissioner of Indian Affairs:

We, the undersigned to hereby object to the opening for settlement by the homesteaders of the unallotted lands belonging to the Indians of the Sioux Nation, in Todd County, South Dakota, on the Rosebud reservation, and give the following reasons:

We have already, since the treaty of 1889, contributed to the Government, to be opened to settlers, and sold, four tracts of land, vis: Gregory County, Tripp County, Mellette County, and Lower Brule, and we think that you can readily see the justice of our demand that you do not open the lands in Todd County for settlement. Further, we wish to provide for our children who have not been allotted lands and for those children who are being born today and will be born in the future, and we think that the best way to this is to hold the lands in

lands which may hereafter be submitted for consideration and report by this Office.

Respectfully,
(Signed) F. H. Abbott
Acting Commissioner.

Department of the Interior
United States Indian Service
Rosebud, So. Dakota
March 7, 1913

The Honorable,
Commissioner of Indian Affairs,
Washington, D.C.

Sir:

I herewith enclose two petitions, one from the Black Pipe and the other from the Cut Meat Districts remonstrating against the opening of Todd County. The one from the Black Pipe District, I notice, has been permitted to be signed on the Typewriter, but the party who brought the petition or rather remonstrance, assured me that the same was a true copy of the original petition.

Very respectfully,
(Signed) J. H. Scriven
Superintendent.

To the Commissioner of Indian Affairs

We the undersigned do hereby object to the opening for settlement by the homesteaders, of the unallotted lands belonging to the Indians of the Sioux Nation, in Todd County, S.D., on the Rose Bud reservation, and give the following as our reasons;:

We have already, since the treaty of 1889, contributed to the Government, to be opened to settlers, and sold, four tracts of land viz: Gregory County, Tripp County, Mellett County, and Lower Brule, and we think that you can readily see the justice of our demand that you do not open the lands in Todd County for settlement. Further we wish to provide for our children who have not been allotted lands and for those children who are being born today and will be born in the future, and we think that the best way to this is to hold the lands in Todd County, in reserve until such time as it can be allotted to our children.

We sincerely entreat that you give this just and fair consideration, and that the result will be satisfactory to all we beg to remain,

Yours very respectfully,

- | | |
|-----------------------------|-----------------------------|
| 1 George Crow Eagle | 31 James Red Weasel. |
| 2 Th. Crow Eagle. | 32 Woods Father. |
| 3 Robt. Ugly Wild Horse. | 33 Charging Hawk. |
| 4 James Bull Bat. | 34 Stand At Him. |
| 5 Samos Bear Shield. | 35 Geo. Medicine Thirlind. |
| 6 Jeffery Brush Breaker. | 36 Quick Bear. |
| 7 Bear Shield. | 37 Chas. Owns The Battle . |
| 8 White Crane Walking. | 38 Walking Bull. |
| 9 Shoot At Hail. | 39 Chas. Walking Bull. |
| 10 Poor Thunder. | 40 Charging Bear. |
| 11 Eagle Horse. | 41 Henry Charging Bear. |
| 12 Ugly Wild Horse. | 42 Albert Crazy Bear. |
| 13 Good Fox. | 43 Frank Skunks Father. |
| 14 Eagle Wolf. | 44 Knife Scabbard. |
| 15 Levi Eagle Chief. | 45 Ben Looking White. |
| 16 Levi White Buffalo. | 46 James Little Chief. |
| 17 Hawk Ghost. | 47 Hugh Charging Bear. |
| 18 Bull Bat. | 48 Bull Talks Behind. |
| 19 John Yellow Elk. | 49 Mr. Yellow Elk. |
| 20 Crow Eagle. | 50 Edward Eagle Bear. |
| 21 Joe. Fire Heart. | 51 Eagle Bear, Sr. |
| 22 Hot Stampede. | 52 Plenty Bull. |
| 23 Un. Bear. | 53 Gilbert Little Chief. |
| 24 Olan Little Crow. | 54 Hunter Big Crow. |
| 25 Un. Bear Shield. | 55 Ahaz. Forgets Nothing. |
| 26 Forgets Nothing. | 56 Goes To War. |
| 27 Jackson Crazy Bear. | 57 Horned Antelope. |
| 28 Richard Forgets Nothing. | 58 Abraham Horned Antelope. |
| 29 Henry Eagle Bear Jr. | 59 Silas Quick Bear. |
| 30 George Red Weasel. | 60 Bill Black Bull. |
| 66 Neck Shield. | 61 Phillip Black Bull. |
| 67 John His War. | 62 Dan. Black Bull. |
| 68 Eagle Man Sr. | 63 Silas Chasing His Horse. |
| 69 Henry Quick Bear. | 64 Fox |
| 70 Ahaz. Dog Eyes. | 65 Spotted Owl. |
| 71 Eddie Dark Face. | 66 Henry Spotted Owl. |
| 72 James Little Turtle. | 66 Search The Thimney |

- | | |
|-----------------------|---------------------|
| 77. Ch. Robb. | 75. Gros Eagle, Sr. |
| 78. J. L. Jarvis. | 76. Tom's Shield. |
| 79. Tom's Bull. Bull. | 77. Bull Bull. |
| 80. Tom's Bull. Bull. | 78. Bull Bull. |
| 81. Tom's Bull. Bull. | 79. Bull Bull. |
| 82. Tom's Bull. Bull. | 80. Bull Bull. |
| 83. Tom's Bull. Bull. | 81. Bull Bull. |
| 84. Tom's Bull. Bull. | 82. Bull Bull. |
| 85. Tom's Bull. Bull. | 83. Bull Bull. |
-
- | |
|-------------------------------|
| 87. Jumping Ekl. Sr. |
| 88. Sam. Little Knife. |
| 89. Eli Wooden Ring. |
| 90. Eagle Horse. |
| 91. Fred Left Hand. |
| 92. Amos Wooden Knife. |
| 93. Lashie Wooden Knife. |
| 94. Wooden Knife Sr. |
| 95. Tom. Flying Horse. |
| 96. Frank Sleeping Bear. |
| 97. Long Warrior. |
| 98. Andrew Long Warrior. |
| 100. Star Boy. |
| 101. Ben Long Warrior. |
| 102. Luke Leading Cloud. |
| 103. Leading Cloud Sr. |
| 104. Louis Eagle Hawk. |
| 105. Good Boy. |
| 106. Runs Close To Village. |
| 107. Miller. |
| 108. Jas. |
| 109. Jno. |
| 110. Shoot At Hall. |
| 111. Comes From Among. |
| 112. Spotted Bear. |
| 113. Talking Bull Sr. |
| 114. Chas. Talking Bull. |
| 115. Alex Jarvis. |
| 116. Peter Jarvis. |
| 117. Tools Sr. |
| 118. Jas. Tools. |
| Plenty Bull. |
| 120. Fred Ashley. |
| 121. Joanes Runs Close To The |

Reuben Quick Bear

To the Commissioner of Indian Affairs:

We, the undersigned do hereby object to the opening for settlement by the homesteaders of the unallotted lands belonging to the Indians of the Sioux Nation, in Todd County, South Dakota, on the Rosebud reservation, and give the following reasons:

We have already, since the treaty of 1889, contributed to the Government, to be opened to settlers, and sold,

four tracts of land, viz: Gregory County, Tripp County, Mellette County, and Lower Brule, and we think that you can readily see the justice of our demand that you do not open the lands in Todd County for settlement. Further, we wish to provide for our children who have not been allotted lands and for those children who are being born today and will be born in the future, and we think that the best way to this is to hold the lands in Todd County, in reserve until such time as it can be allotted to our children.

We sincerely entreat that you give this just and fair consideration, and that the result will be satisfactory to all, we remain,

Yours very respectfully,

Reuben Quick Bear
George Lone Elk
Tom's Yellow Shield
Chas. Talking Bull
Jay Bird
High Bald Eagle
Ben Long Warrior
Frank Little Thunder
George Little Thunder
William Sharp Fish
John Eagle Hawk
Good Shield
Tom
Plenty Bull
Samuel
Samuel

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Acorn.

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We have already, since the treaty of 1889, contributed to the Government, to be opened to settlers, and sold, four tracts of land, viz: Gregory County, Tripp County, Mellette County, and Lower Brule, and we think that you can readily see the justice of our demand that you do not open the lands in Todd County for settlement. Further we wish to provide for our children who have not been allotted lands and for those children who are being born today and will be born in the future, and we think that the best way to this is to hold the lands in Todd County, in reserve until such time as it can be allotted to our children.

We sincerely entreat that you give this just and fair consideration, and that the result will be satisfactory to all, we remain,

Yours very respectfully,

*John A. Johnson, John A. Johnson,
Charles H. Johnson, et al.*

Department of the Interior
United States Indian Service
Rosebud Agency, S. Dak.
March 13, 1913.

The Honorable,
Commissioner of Indian Affairs,
Washington, D.C.

Sir:

I herewith enclose two petitions, one from Little White River District, and the other from the Cut Meat District, protesting against the opening of Todd County to settlement.

Very respectfully,
(Signed) John Scriven
Superintendent.

[#49]

(Letter of Dec. 9, 1915 to Sec. of Interior from the Commissioner of Indian Affairs concerning construction of a bridge on land formerly within the Rosebud Reservation)

The Honorable
The Secretary of the Interior

Sir:

I have your letter of the 7th instant, requesting my decision of certain questions raised by the Commissioner of Indian Affairs in his letter to you dated December 1, 1915, as follows:

"The Board of County Commissioners of Mellette County, S.D., proposes to construct a bridge across the Little White River on the section line between Sections 26 and 35, Township 40, Range 30, in said County. The site for the bridge is on land formerly within the Rosebud Reservation but since opened for settlement. The NE $\frac{1}{4}$ of Section 35, on which one end of the bridge will rest, has been allotted and is now held in trust by the Government. The SE $\frac{1}{4}$ of Section 26 has been deeded to an Indian. Under the laws of the State, land for 33 feet on either side of a section line is reserved for public highways unless such land is impracticable for use as a highway and rights of way are acquired on other land. The land on which the proposed bridge is to rest will therefore become a public highway as soon as the State cares to thus utilize it.

"The proposed site is in an Indian community and the Indian population in that region is far greater than the white population. A bridge at the place designated would be of great use to the

Government in the transportation of supplies, in addition to the benefits which would be derived by the residents. In view of this and the fact that a large amount of the property in Mellette County is held in trust by the Government and is consequently untaxable, the Supervisor in Charge of the Rosebud School recommends that an arrangement be made whereby the Indians will bear half the cost of the erection of the bridge.

"Under the State laws of South Dakota, each county in the State must enter into a contract once a year with some reputable bridge company for such bridges and structural steel as the county may need during the year. Then when the county wants a bridge it merely orders the construction thereof under the contract thus made. In pursuance of this law, Mellette County is now under contract. For this reason, if the bridge is built by the county it will have to be built by this company under the terms of such contract.

"Under the law contracts for supplies or services can be made by the Government only after due public advertising respecting the same, with exceptions in certain cases (sections 2083, 3709, R.S., Acts March 3, 1877, section 1, 19 Stats., 291, and July 13, 1892, section 3, 27 Stats., 143, II Op. Att. Gen., 257, III *ibid*, 437). The present case can not be considered as one of these exceptions. The question therefore arose whether the Government could join with the county and assume half the construction cost without advertising according to the law, even though the contract of the county was made after due advertisement pursuant to State law. To avoid this difficulty it was suggested that the county assume the entire burden of the construction and after completion the Government could purchase a one-half interest in the bridge.

"The fund which it is proposed to use in the purchase of the bridge arises under the provisions of the Act of March 2, 1907 (34 Stat., 1230-31), authorizing the sale of a portion of the surplus lands of the Rosebud Reservation. Under this Act, after the deposit of \$1,000,000 in the Treasury, the balance of the proceeds "shall be deposited in the Treasury of the United States to the credit of the said Indians and shall be expended for their benefit under the direction of the Secretary of the Interior * * *." The Office would therefore like to know whether, in the absence of specific legislation the Department would have the power to make use of such funds in the purchase of the bridge at a location on land in which the United States will have no interest.

"The county has given the bridge company a tentative order to proceed with the construction, contingent upon the Superintendent being authorized to buy a half interest in the bridge after its completion. The county will issue its warrant to the construction company in payment for the bridge. The warrants are discounted at five per cent, and this Office has no information concerning the time of payment. The question therefore arises as to whether the county has any ownership in the bridge until payment is made on the warrant and whether the Superintendent in charge of the reservation could legally pay the county for the one-half interest until the county has acquired full title to the bridge either by actual payment of the amount of the warrant or by the contractor's accepting the warrant in payment and waiving any further claim on the bridge."

The funds derived from the sale of the surplus lands of the Rosebud reservation (act of March 2, 1907, 34 Stat., 1230, 1231) are "trust funds" and so carried on

the books of the Treasury, and the balance thereof, over and above the special fund of \$1,000,000, is to be expended, under the direction of the Secretary of the Interior, for the benefit of "the Indians belonging and having tribal rights on the Rosebud reservation," the same act providing further, as an alternative, that the said secretary,

"may, in his discretion, upon application by a majority of said Indians, pay a portion of the same to the Indians in cash, per capita, share and share alike, if in his opinion such payments will be in the best interests of said Indians."

I think it is clear, from the terms of the act as a whole, that it was the intent of Congress that said trust funds were to be expended for the equal and exclusive benefit of the Indians, and the authority of the Secretary of the Interior to make expenditures from said fund is limited strictly to objects that are of equal benefit to all of the Indians and not of primary benefit to others.

From the facts appearing, it would seem that the bridge, part of the cost of which it is proposed to meet by an expenditure from said trust fund if proper, would be of great benefit to the Government itself; it would be of particular use to some, if not all, of the Indians of the Rosebud reservation; and it would be of general use and benefit to all residents of Mellette County, Indian and white alike.

Aside from all question as to form and legality of contract etc., I do not think the erection of a bridge, for the broad public uses intended, would be a work "for their benefit" within the meaning of said act, and any expenditure made on such account could not, on

1360

the facts appearing, be regarded as an expenditure "for their benefit."

Respectfully,

(Signed) W. W. Warwick
Comptroller.

1361

[#50]

(Series of letters between G. Van Meter and the Department of Interior in 1915 concerning the trespassing of cattle on land formerly within the Rosebud Reservation)

INDIAN OFFICE.

FILES.

CAUTION!

Positively no papers to be added to or taken from this file, except by an employee of the Mails and Files Division.

By order of

E. B. MERRITT,
Asst. Commissioner.

A LETTER

Murdo S.D. Nov. 18 1914.

Mr. Davis,
Supt Industries,
Rosebud Agency, S. D.

Dear Mr. Davis:

I just talked to you by phone.

Quite a delegation of Mellette County settlers were in my office Saturday, and are insistent that they are not being legally treated in Mellette County by the Government.

They made affidavits, very strong ones, that they own or control by lease large tracts of land in

Mellette County, and are trying to make an honest living grazing a few cattle there. That they confine their cattle to their land leased as nearly as is possible, and are constantly annoyed by the Indian and I D cattle which are allowed to roam as they please, on every bodys land and the Government protests if any settler attempt to enforce the Trespass Law, against the Indians the same, that the Government attempt to arbitrarily collect \$1.00 per head for all cattle (not under fence), and without any regard for the statutory provisions concerning same. Your Inspectors and your Indian police and deputies claim the right to take up all cattle without any legal process at all, all cattle even though they be on the settlers own land or on leased land. This is a plain violation of S. Dak. statutes, and Mellette County has been legally organized and it is subject to the laws of the state.

I judge from our telephone conversation that you contend that the Government has a right to arbitrarily fix a penalty of \$1.00 per head for all settlers stock, if allowed to run at large in Mellette County, claiming that Mellette County though organized, is still under the control of the Government.

Your administration has been a fine one; but give the settler a chance. Treat them, as citizens striving to develop Uncle Sams domain. Difficulties at best are hard enough. All they ask is that their stock be subject to the same law that the Indian stock is.

In this particular case at issue, you claim the right to collect \$240 cash, or \$1.00 per head for

cattle grazing in Mellette County, and he owns or controls 1600 acres, for which he has paid the Government price or rental price of the owner.

He has a right to graze his cattle on that land, though not under fence, and if they should trespass on an Indians land that Indian has his legal recourse the same as a white settler.

Trusting that you and the Department see this matter in that light, and that this matter can be amicably adjusted, I am respectfully, A. Rosebud Settler.

G. O. Van Meter.

Honorable Cato Sells,
Commissioner of Indian Affairs,
Washington, D.C.

Dear Sir:

I have just learned that there are now about to be started several cases against individuals for the trespass of stock in Mellette county, Rosebud Reservation, South Dakota. In that connection I desire to advise you of the following status of affairs.

Mellette county was opened to settlement by the United States and for the most part the jurisdiction of the county was turned over to the state of South Dakota. We have, in this state, what is known as a herd law which makes the owner of animals liable for the trespass of the same and yet in Mellette county, if Indian cattle trespass upon the land of white settlers the settler is told that because those cattle are under the jurisdiction of

the Indian Department he cannot collect damages under the state law. On the other hand if the cattle of white settlers stray upon Indian land the owner thereof is promptly held for trespass. It appears to me that this is a one-sided proposition that ought not to exist.

I would like to talk this situation over with you and I would be pleased if you would notify your superintendent at Rosebud and the United States Attorney in this circuit to take no further action looking toward the institution of these cases until they hear from you.

I will be in Washington the forepart of December and I will be pleased to talk over with you this and other matters with relation to the Indian country.

Yours very respectfully,

Harry D. Gandy

OFFICE OF
G. O. VAN METER
ATTORNEY AT LAW
MURDO HOTEL

Murdo, South Dakota, Dec 3
1914

Secretary of Interior,
Washington, D. C.

Dear Sir:

Mellette County, S.D. was formerly a part of the Rosebud Reservation. Was open for settlement in 1912. Settled and was Organized as a County in

1912. Is settled now and Homesteaders are commuting. Some vacant Government land in same. Settlers have had difficulty in attempting to cultivate same. It is not adapted to Farming and is really adapted to grazing. Settlers have tried to turn to Dairying and they are met with this opposition and it bids fair to be considerable question. INDIAN or I.D. cattle trespass in the settlers crops, and the Supt resists the taking up of said cattle under the S.D. statutes.

If the Settlers cattle trespass on Indian allotments, the Supt refuses to invoke the S.D. statutes but arbitrarily fixes and demands \$1.00 per head damage and forcibly drives the cattle 80 miles to the Agency and sells same for the costs. We think that unfair and illegal. We think our Supreme Court has passed directly on that point and holds that when a County formerly a part of an Indian Reservation, is open for settlement, and is ORGANIZED by proclamation and County Officers take their oath of office, it then CEASES to be a RESERVATION and becomes an ORGANIZED COUNTY, and that all voting citizens are subject to the same law both Criminal and Civil.

G. O. Van Meter	Murdo
Geo. W. Wright	Huron
John Sutherland	Pierre
I. H. Jones	Huron
S. A. Nash	Sioux Falls
Oscar C. Olson	Lemmon
P. P. Vallery	Nisland
W. G. Graham	Mitchell

Independent-Progressive Ticket

United States Senator—

H. L. LOUCKS

Cong. 1st Dist.—

A. L. VAN OSDEL

Cong. 2nd Dist.—

H. P. PACKARD

Governor—

R. O. Richards

Lieut. Governor—

GEORGE C. BERRY

Secretary of State—

C. B. REEVES

Attorney General—

M. J. RUSSELL

State Auditor—

J. J. WIPF

The Progressive Party

of

South Dakota

Huron, South Dakota,

1914

It seems to us that it is an opportune time for the Democratic Administration to candidly admit that the Republic Dealings with the Indians for the past century has been a series of blunders and errors and the time has arrived that the wrongs should be righted and that the White settlers rights should be respected on an equality with the Red Ward of the Government.

To be more specific in our request, we feel as if Indian Agents or Supts should be instructed "That in organized Counties, Indian rights, both Civil and

Criminal should be enforced in State Courts, in all cases where the Indian is a legal voter and citizen of the State."

Very Respectfully,

G. O. Van Meter.

Murdo, S.D.

Mr. G. O. Van Meter,
Murdo, South Dakota.

Jan. 25, 1915

Sir:

Receipt is acknowledged of your letter of December 3, 1914, addressed to the Secretary of the Interior, regarding the trespass of cattle on Indian allotments, and the action of the Officer in Charge of the Rosebud Reservation in insisting upon a settlement for these trespasses.

You refer to the fact that the Indians allow their cattle to graze on the open range and request that the Superintendent be instructed to take action only in accordance with the state law in case of trespass so that the Indian and the white settler will be treated alike in this matter.

The Supervisor in Charge of the Rosebud Agency has heretofore reported conditions on the lands to which you refer. The following is quoted from his report dated November 21, 1914:

"I would estimate that there have been not less than three or four thousand head of such cattle found on Indian lands during the past summer and I have collected several hundred dollars as trespass thereon. In other cases adjustment has been made whereby the owners would take out leases, in which case I either withdrew the claim for trespass or adjusted them on such lenient terms as would do justice to the allottee and the least injury possible to the owners of the stock.

I have taken great pains to advise all people of the law and also to advise them of my policy, which was to break up the open range grazing practice, and to in every reasonable way foster the fencing of these lands and thus utilize them in such way that the herds would be no annoyance or menace to the Indians or white population. In no case have I intended to bring trouble to the homesteaders or settlers trying to make a home in the country, but on the other hand have been protecting them in every way from range herds as I protect the Indians. It is well known that where large herds are allowed to roam over the ranges that neither white men nor Indians can succeed as farmers or home makers. While there has been considerable popular clamor against what I have been doing, it is in this case as is frequently found in similar matters, the larger holders circulate misinformation and false reports to the smaller holders and in that way work up popular indignation with a view of perpetuating their own practices. It is possible that reports of this kind have gone to the Office, for these men have succeeded so far as to cause such men as Mr. Van Meter, the attorney, to accept a very erroneous idea of what I really am doing and attempting to do. Naturally, these things will subside after the public comes to know the facts, consequently I feel there is nothing much to do as to that except as to allow time to work its own cure. But the question as to whether or not the law is enforced and maintained in this case is of vast import to the Indians and white people alike."

The Office believes that the Supervisor is taking the right course, and that no harm is being done to the homesteaders who are endeavoring to make their homes in that locality.

Any of the homesteaders who have more stock than can be grazed on their lands can, without doubt, negotiate leases with individual Indians for their allotments. These leases, however, must be on the regular form provided by this Department, and must be submitted to the Officer in charge of the Rosebud School.

The Office will do all in its power to aid the settlers and believes that the matter of grazing their cattle can be settled without any difficulty. It is determined, however, not to permit persons owning large herds of cattle to run them loose to graze on the Indian allotments. If necessary the Department of Justice will be requested to bring suits against the owners of such herds in order that trespass fees may be collected.

Respectfully,
(Signed) Cato Sells
Commissioner.

G. O. Van Meter
Attorney At Law

Murdo, South Dakota,

2/2/15

Hon Cato Sells,
Washington, D.C.

Dear Mr. Sells: Replying to yours of Jan 25th in reply to my letter to you 60 days old and unanswered will say that you are in gross error as to the complaint made.

You answer as to TRESPASS ON INDIAN ALLOTMENTS. I wrote you and can furnish you 20 affidavits that the Indian Agt Indians and employes have taken up HOMESTEADERS cattle on

their own land, or on open land or unallotted land over which you have NO AUTHORITY at all, and forced the settlers to pay \$1.00 per head, without the semblance of right. I can overwhelm you with the proof. The settlers of Mellette County have decided to resist such action and to make a test case and carry it to the Supreme Court. I further doubt if your Agent, Indians or employes have a right to take a settlers stock that is TRESPASSING ON an Indian allotment if within MELLETTE COUNTY. In the view of a recent Decision we are going to try that question also.

Further we intend to test in Mellette County the right of the Indian Department, to allow 16 Indian allottees to vote \$100 Public school bonds, erect School house, employ a white teacher, assess interest, float bonds, maintain school for 8 mo and to require the 4 white settlers residing in that School district to pay the whole bill: we doubt if they can do that.

The Supreme Court has frequently held that "Individual property cannot be confiscated without due process of law."

We have just had introduced and passed in the State Legislature a Law that will perhaps bring this question to a focus between the State Government and the Interior Department.

I am not fully advised as to the number of cattle belonging to white men that graze in Mellette Co but I will neventure the assertion that there are 4 times that number belonging to the Indians, and squaw men, on which they refuse to pay a penny tax, trespassing on the settlers land.

I think that ALL are and should be amenable to the Trespass law of SOUTH DAKOTA.

You conclude your letter just like all Gove employes conclude their letters "We will do all we can to aid the settlers settle and develop the lands" and yet you and your Agents and Police continue to practice their violations of the rights of the settlers and the Laws of South Dakota.

Very Respectfully,
G. O. Van Meter.

FEB 15 1915

Mr. G. O. Van Meter,
Murdo, South Dakota.

Sir:

I have your letter of February 2, 1915, with further reference to the trespassing of cattle on Indian land, and the right of this Department to collect trespass fees therefor. You allege that the Rosebud Agency officers have taken up cattle which were not on Indian land, and have collected \$1 per head trespass fee.

If you will submit affidavits from the homesteaders interested and from others having knowledge of the facts, that the agency officials have taken up cattle and held them until the \$1.00 per head trespass fee was paid, I will have the matter investigated and will see that the rights of the homesteaders are fully protected so far as the actions of the employes of the Indian Service are concerned.

As to your complaint that the Indians are taking advantage of state laws, organizing school districts and providing for issuing school bonds, erecting school houses, employing teachers, etc., for which their lands cannot be taxed, you are advised that

this is a matter which seems to be under the control of the State authorities. The Office, however, has been encouraging Indians generally to send their children to the local schools, and to take an interest in school matters.

Respectfully,
(Signed) Cato Sells
Commissioner.

[#511]

(Text and legislative history of H. R. 12082 plus letters concerning this bill which authorizes the sale of land in South Dakota for cemetery purposes)

[Act of March 3, 1919, Public No. 338, 40 Stat. 1320]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized to sell and convey to the White River Cemetery Company, for cemetery purposes, for a price not less than the appraised value thereof, a ten-acre tract within the former Rosebud Indian Reservation in Mellette County, South Dakota, described as the northeast quarter of the southeast quarter of the northeast quarter of section thirty-four, township forty-two north, range twenty-nine west, sixth principal meridian, or such part thereof as may be required: Provided, however, That the tract conveyed shall be described in terms of the legal survey, the consideration to be paid to the superintendent of the Rosebud Reservation, to be deposited in the Treasury of the United States to the credit of the Rosebud Indians.

Approved, March 3, 1919.

[56 Cong. Rec. 9490 (1918)]

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to

the Clerk, and referred to the several calendars therein named, as follows.

Mr. GANDY, from the Committee on Indian Affairs, to which was referred the bill (H. R. 12082) authorizing the sale of certain lands in South Dakota for cemetery purposes, reported the same without amendment, accompanied by a report (No. 742), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

[57 Cong. Rec. 1838-1839 (1919)]

LANDS IN SOUTH DAKOTA FOR CEMETERY PURPOSES

The next business on the Calendar for Unanimous Consent was the bill (H. R. 12082) authorizing the sale of certain lands in South Dakota for cemetery purposes.

The SPEAKER. Is there objection to the consideration of the bill?

Mr. STAFFORD. Reserving the right to object, what is the special need of having this authorization when the department has authority to grant the right to certain classes of associations?

Mr. GANDY. The Secretary decided that under the construction of the act he did not have authority to sell for cemetery purposes, and I may say that was ascertained after that land had been, as it is now being used, for cemetery purposes.

Mr. STAFFORD. The land is now being used for cemetery purposes?

Mr. GANDY. Yes.

Mr. STAFFORD. I withdraw the reservation of the point of order.

The SPEAKER pro tempore. Is there objection? [After a pause.] The Chair hears none. This bill is on the Union Calendar.

Mr. GANDY. Mr. Speaker, I ask unanimous consent to have the bill considered in the House as in the Committee of the Whole.

The SPEAKER. The gentleman asks unanimous consent to have the bill considered in the House as in the Committee of the Whole. Is there objection? [After a pause.] The Chair hears none. The Clerk will report the bill.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Interior is hereby authorized to sell and convey to the White River Cemetery Co., for cemetery purposes, for a price not less than the appraised value thereof, a 10-acre tract within the former Rosebud Indian Reservation in Mellette County, S. Dak., described as the northeast quarter of the southeast quarter of the northeast quarter of section 34, township 42 north, range 29 west, sixth principal meridian, or such part thereof as may be required: *Provided, however,* That the tract conveyed shall be described in terms of the legal survey, the consideration to be paid to the superintendent of the Rosebud Reservation, to be deposited in the Treasury of the United States to the credit of the Rosebud Indians.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

On motion of Mr. Gandy, a motion to reconsider the vote by which the bill was passed was laid on the table.

[57 Cong. Rec. 4784 (1919)]

LANDS IN SOUTH DAKOTA.

The bill (H. R. 12082) authorizing the sale of certain lands in South Dakota for cemetery purposes was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

[#51A]

(House report to accompany H. R. 12082 plus a copy of the bill)

[H. R. Rep. No. 742, 65th Cong. 2d Sess. 1-2 (1918)]

SALE OF CERTAIN LANDS IN SOUTH DAKOTA
FOR CEMETERY PURPOSES.

July 5, 1918.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. Gandy, from the Committee on Indian Affairs, submitted the following

R E P O R T .

[To accompany H. R. 12082.]

The Committee on Indian Affairs, to whom was referred the bill (H. R. 12082) authorizing the sale of certain lands in South Dakota for cemetery purposes, having considered the same, report thereon with a recommendation that it do pass.

This is a bill to authorize the sale of 10 acres of tribal land on Rosebud Indian Reservation in Mellette County, S. Dak., and belonging to the Rosebud Tribe of Indians, to the White River Cemetery Co. This 10-acre tract is situated near the county seat town of White River and among the citizens of that town the

White River Cemetery Co. was legally incorporated in order that the laws of South Dakota relating to cemeteries might be complied with and a legal corporation be in existence to receive and hold title to this land. It is provided that the Secretary of the Interior shall sell the land at not less than appraised value thereof and that the money received shall be deposited in the Treasury of the United States to the credit of the Rosebud Tribe of Indians.

Department of the Interior,
Washington, June 7, 1918.

Hon. Charles D. Carter.
Chairman Committee on Indian Affairs,
House of Representatives.

My Dear Mr. Carter: I am in receipt of your letter of May 14, 1918, inclosing for report H. R. 12082, a bill authorizing the sale of certain lands in South Dakota for cemetery purposes, and in response thereto I have the honor to submit the following:

The bill proposes to convey for cemetery purposes a 10-acre tract within the former Rosebud Indian Reservation in Mellette County, S. Dak., described as the NE. $\frac{1}{4}$ SE. $\frac{1}{4}$ NE. $\frac{1}{4}$ of sec. 34, T. 42 N., R. 29 W., sixth principal meridian, "or such part thereof as may be required." It appears from the tract book in the General Land Office that the E. $\frac{1}{2}$ NE. $\frac{1}{4}$, with other lands in said section, are subject to a public highway application filed under section 4 of the act of March 3, 1901 (31 Stat., 1084), the map of which was approved December 23, 1913. Said land was opened to settle-

ment and entry under the act of May 30, 1910 (36 Stat., 448) which provides that the proceeds of the sale of the lands in said former Indian reservation shall be deposited to the credit of the Indians thereof and that the disposal of the land by the United States shall be in trust for their benefit.

It is provided in the act of March 1, 1907 (34 Stat., 1052) that religious, fraternal, or cemetery associations may apply for not to exceed 80 acres of any unappropriated, nonmineral public lands of the United States for cemetery purposes "provided that title to any land disposed of under the provisions of this act shall revert to the United States should the land or any part thereof be sold or cease to be used for the purpose herein provided." I am therefore of the opinion that the bill should be amended to include such a proviso, and that the purchase price be paid to the receiver of the land office.

I therefore recommend that the bill be amended by striking out of line 11, on page 1, after the word "required," the colon and the words "*Provided, however,*" and by striking out all of lines 12 and 13 on page 1, and all of line 1 on page 2 down to and including the word "Reservation," and by inserting in lieu thereof the words "the tract conveyed to be described in terms of the aliquot part of the section, the proceeds," and by attaching to the end thereof the following:

"*Provided*, That title to said land shall revert to the United States should the same or any part thereof be sold or cease to be used for the purpose herein provided."

When so amended, I see no objection to the enactment of the proposed legislation.

Cordially, yours, .

Alexander T. Vogelsang,
Acting Secretary.

[H. R. 12082, 65th Cong. 2d Sess. 1-2 (1918)]

H. R. 12082.

IN THE HOUSE OF REPRESENTATIVES.

May 13, 1918.

Mr. Gandy introduced the following bill; which was referred to the Committee on Indian Affairs and ordered to be printed.

A BILL

Authorizing the sale of certain lands in South Dakota for cemetery purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That the Secretary of the Interior is hereby authorized to
4 sell and convey to the White River Cemetery Company, for
5 cemetery purposes, for a price not less than the appraised
6 value thereof, a ten-acre tract within the former Rosebud
7 Indian Reservation in Mellette County, South Dakota,
8 described as the northeast quarter of the southeast quarter of

9 the northeast quarter of section thirty-four, township forty-
10 two north, range twenty-nine west, sixth principal meridian,
11 or such part thereof as may be required: *Provided, however,*
12 That the tract conveyed shall be described in terms of the
13 legal survey, the consideration to be paid to the superin-

1 tendent of the Rosebud Reservation, to be deposited in the
2 Treasury of the United States to the credit of the Rosebud
3 Indians.

H. R. 12082.

[Report No. 742.]

IN THE HOUSE OF REPRESENTATIVES.

May 13, 1918.

Mr. Gandy introduced the following bill; which was referred to the Committee on Indian Affairs and ordered to be printed.

July 5, 1918.

Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

1382

A BILL

Authorizing the sale of certain lands in
South Dakota for cemetery purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That the Secretary of the Interior is hereby authorized to
4 sell and convey to the White River Cemetery Company, for
5 cemetery purposes, for a price not less than the appraised
6 value thereof, a ten-acre tract within the former Rosebud
7 Indian Reservation in Mellette County, South Dakota, de-
8 scribed as the northeast quarter of the southeast quarter of
9 the northeast quarter of section thirty-four, township forty-
10 two north, range twenty-nine west, sixth principal meridian,
11 or such part thereof as may be required: *Provided, however,*

1 That the tract conveyed shall be described in terms of the
2 legal survey, the consideration to be paid to the superin-
3 tendent of the Rosebud Reservation, to be deposited in the
4 Treasury of the United States to the credit of the Rosebud
5 Indians.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON INDIAN AFFAIRS,
WASHINGTON.

May fourteen,
Nineteen eighteen.

1383

Dear Sir:

Herewith I am transmitting copy of H.R. 12082 and
will appreciate having you submit a report thereon for
the use and information of this Committee.

Yours truly,
(Signed) C. D. Carter
Chairman

To the Honorable,
The Secretary of the Interior,
Washington, D.C.

DEPARTMENT OF THE INTERIOR
WASHINGTON

JUN - 7 1918

Hon. Charles D. Carter,
Chairman, Committee on Indian Affairs,
House of Representatives.

My dear Mr. Carter:

I am in receipt of your letter of May 14, 1918,
inclosing for report H. R. 12082, a Bill "Authorizing
the sale of certain lands in South Dakota for cemetery
purposes" and in response thereto I have the honor to
submit the following:

The bill proposes to convey for cemetery purposes a
ten acre tract within the former Rosebud Indian Reser-
vation in Mellette County, South Dakota, described as
the NE¼ SE¼ NE¼ of Sec. 34, T. 42 N., R. 29 W., 6th

Principal Meridian, "or such part thereof as may be required". It appears from the tract book in the General Land Office that the E $\frac{1}{4}$ NE $\frac{1}{4}$, with other lands in said section, are subject to a public highway application filed under Section 4 of the act of March 3, 1901 (31 Stat., 1084), the map of which was approved December 23, 1913. Said land was opened to settlement and entry under the act of May 30, 1910 (35 Stat., 448) which provides that the proceeds of the sale of the lands in said former Indian Reservation shall be deposited to the credit of the Indians thereof and that the disposal of the land by the United States shall be in trust for their benefit.

It is provided in the act of March 1, 1907, (34 Stat., 1052), that religious, fraternal or cemetery associations may apply for not to exceed 80 acres of any unappropriated, non-mineral public lands of the United States for cemetery purposes "provided that title to any land disposed of under the provisions of this act shall revert to the United States should the land or any part thereof be sold or cease to be used for the purpose herein provided." I am therefore of the opinion that the bill should be amended to include such a proviso, and that the purchase price be paid to the Receiver of the land office.

I therefore recommend that the bill be amended by striking out of line 11 on page one, after the word "required," the colon and the words "Provided, however," and by striking out all of lines 12 and 13 on page one, and all of line 1 on page two down to and including the word "Reservation," and by inserting in lieu thereof the words "the tract conveyed to be described in terms of the aliquot part of the section, the proceeds," and by attaching to the end thereof the following: "Provided, That title to said land shall revert

to the United States should the same or any part thereof be sold or cease to be used for the purpose herein provided." When so amended, I see no objection to the enactment of the proposed legislation.

Cordially yours,

(Signed) ALEXANDER T.
VOGELSANG,
Acting Secretary.

DEPARTMENT OF THE INTERIOR
WASHINGTON

MAR - 2 1919

My dear Mr. President:

I am in receipt, by your reference of March 3, 1919, of Enrolled Bill (H. R. 12082) entitled "An act authorizing the sale of certain lands in South Dakota for cemetery purposes", and have the honor to report that there is no objection to the approval of the Bill.

Cordially yours,

(Sgd.) Franklin K. Lane

The President,
The White House.

Inclosure +8154.

To Secretary
MAR 3 1919
For signature

[#51B]

(Senate report to accompany H. R. 12082 plus
a copy of the bill)

[S. Rep. No. 745, 65th Cong. 3d Sess. 1-2 (1919)]

Report No. 745.

SALE OF CERTAIN LANDS IN SOUTH DAKOTA FOR
CEMETERY PURPOSES.

February 20, 1919.—Ordered to be printed.

Mr. Myers, from the Committee on Public Lands,
submitted the following

R E P O R T .

[To accompany H. R. 12082.]

The Committee on Public Lands, to which was referred the bill (H. R. 12082) authorizing the sale of certain lands in South Dakota for cemetery purposes, having had the same under consideration, begs leave to report it back to the Senate with the recommendation that the bill do pass.

The necessity for this legislation is clearly set forth in the House Report No. 742 of the Sixty-fifth Congress, as follows:

This is a bill to authorize the sale of 10 acres of tribal land on Rosebud Indian Reservation in

Mellette County, S. Dak., and belonging to the Rosebud Tribe of Indians, to the White River Cemetery Co. This 10-acre tract is situated near the county seat town of White River and among the citizens of that town the White River Cemetery Co. was legally incorporated in order that the laws of South Dakota relating to cemeteries might be complied with and a legal corporation be in existence to receive and hold the title to this land. It is provided that the Secretary of the Interior shall sell the land at not less than appraised value thereof and that the money received shall be deposited in the Treasury of the United States to the credit of the Rosebud Tribe of Indians.

Department of the Interior
Washington, June 7, 1918.

Hon. Charles D. Carter,
Chairman Committee on Indian Affairs,
House of Representatives.

My Dear Mr. Carter: I am in receipt of your letter of May 14, 1918, inclosing for report H. R. 12082, a bill authorizing the sale of certain lands in South Dakota for cemetery purposes, and in response thereto I have the honor to submit the following:

The bill proposes to convey for cemetery purposes a 10-acre tract within the former Rosebud Indian Reservation in Mellette County, S. Dak., described as the NE.¼ SE.¼ NE.¼ of sec. 34, T. 42 N., R. 29 W., sixth principal meridian, "or such part thereof as may be required." It appears from the tract book in the General Land Office that the E.½ NE.¼, with other lands in said section, are subject to a public highway

application filed under section 4 of the act of March 3, 1901 (31 Stat., 1084), the map of which was approved December 23, 1913. Said land was opened to settlement and entry under the act of May 30, 1910 (36 Stat., 448) which provides that the proceeds of the sale of the lands in said former Indian reservation shall be deposited to the credit of the Indians thereof and that the disposal of the land by the United States shall be in trust for their benefit.

It is provided in the act of March 1, 1907 (34 Stat., 1052), that religious, fraternal, or cemetery associations may apply for not to exceed 80 acres of any unappropriated, nonmineral public lands of the United States for cemetery purposes "provided that title to any land disposed of under the provisions of this act shall revert to the United States should the land or any part thereof be sold or cease to be used for the purpose herein provided." I am therefore of the opinion that the bill should be amended to include such a proviso, and that the purchase price be paid to the receiver of the land office.

I therefore recommend that the bill be amended by striking out of line 11, on page 1, after the word "required," the colon and the words "*Provided, however,*" and by striking out all of lines 12 and 13 on page 1, and all of line 1 on page 2 down to and including the word "Reservation," and by inserting in lieu thereof the words "the tract conveyed to be described in terms of the aliquot part of the section, the proceeds," and by attaching to the end thereof the following:

"*Provided*, That title to said land shall revert to the United States should the same or any part thereof be sold or cease to be used for the purpose herein provided."

When so amended, I see no objection to the enactment of the proposed legislation.

Cordially, yours,

Alexander T. Vogelsang,
Acting Secretary.

[H. R. 12082, 65th Cong. 3d Sess. 1-2 (1919)]

H. R. 12082.

IN THE SENATE OF THE UNITED STATES.

January 20 (calendar day, January 21), 1919.

Read twice and referred to the Committee on Public Lands.
Public Lands.

AN ACT

Authorizing the sale of certain lands in South
Dakota for cemetery purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled*
3 *that the Secretary* of the Interior is hereby authorized to
4 sell and convey to the White River Cemetery Company, for
5 cemetery purposes, for a price not less than the appraised
6 value thereof, a ten-acre tract within the former Rosebud

7 Indian Reservation in Mellette County, South Dakota, de-
 8 scribed as the northeast quarter of the southeast quarter of
 9 the northeast quarter of section thirty-four, township forty-
 10 two north, range twenty-nine west, sixth principal meridian,
 11 or such part thereof as may be required: *Provided, however,*
 12 That the tract conveyed shall be described in terms of the
 13 legal survey, the consideration to be paid to the superin-
 14 tendent of the Rosebud Reservation, to be deposited in the

1 Treasury of the United States to the credit of the Rosebud
 2 Indians.

Passed the House of Representatives January 20,
 1919.

Attest: SOUTH TRIMBLE,
 Clerk.

65th Congress, 3d Session

H. R. 12082.

[Report No. 745.]

IN THE SENATE OF THE UNITED STATES.

January 20 (calendar day, January 21), 1919.

Read twice and referred to the Committee on
 Public Lands.

February 20, 1919.

Reported by Mr. Myers, without amendment.

AN ACT

Authorizing the sale of certain lands in South
 Dakota for cemetery purposes.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*
 3 That the Secretary of the Interior is hereby authorized to
 4 sell and convey to the White River Cemetery Company, for
 5 cemetery purposes, for a price not less than the appraised
 6 value thereof, a ten-acre tract within the former Rosebud
 7 Indian Reservation in Mellette County, South Dakota, de-
 8 scribed as the northeast quarter of the southeast quarter of
 9 the northeast quarter of section thirty-four, township forty-
 10 two north, range twenty-nine west, sixth principal meridian,
 11 or such part thereof as may be required: *Provided, however,*
 12 That the tract conveyed shall be described in terms of the
 13 legal survey, the consideration to be paid to the superin-

1 tendent of the Rosebud Reservation, to be deposited in the
 2 Treasury of the United States to the credit of the Rosebud
 3 Indians.

Passed the House of Representatives January 20,
1919.

Attest:

SOUTH TRIMBLE,
Clerk.

(Excerpt from the report of the General Accounting
Office, filed July 12, 1934 in Court of Claims Docket
No. C-531.)

[1653] An examination of the township plats of survey and tract books on file in the General Land Office discloses that the area of the lands within the boundaries defined by Section 1 of the aforesaid act of March 2, 1907, was 1,083,680.11 acres * * * the status of which, as of June 30, 1925, was as follows:

		<i>Acres</i>
Total area affected by the act of March 2, 1907		<u>1,083,680.11</u>
Indian allotments (Sections 1 and 2 of said act)		406,081.75
Disposed of to entrymen		573,797.87
Disposed of by public sale		<u>37,516.38</u>
		611,314.25
State school lands:		
Sections 16 and 36 of each township (Section 6 of said act)	53,130.80	
Indemnity selections (Section 6 of said act)	<u>11,455.17</u>	64,585.97
Reserves:		
Missionary	205.00	
Agency	<u>412.44</u>	(a) 617.44
Town sites: (Section 4 of said act)		
Wamblee	160.00	
Wewela	160.00	
Minneota	320.00	
Witten	<u>320.00</u>	960.00
Vacant (subject to entry), as of June 30, 1925		<u>120.70</u>
		<u>1,083,680.11</u>

[#52]

(Excerpt from the report of the General Accounting Office filed July 12, 1934 in the Court of Claims Docket No. C-531)

[p. 1619] * * * the status of which, [lands allotted by Act of April 23, 1904] as of June 30, 1925, was as follows:

	Acres	Total
Total area of the Rosebud Reservation within Gregory County, South Dakota	521,512.56	
Area allotted to Indians	<u>104,267.94</u>	
Total area affected by the act of April 23, 1904		<u>417,244.62</u>
Disposed of to entrymen	334,601.61	
Sold at public sales	51,821.31	
Set aside for town sites	879.24	
State school lands:		
Sections 16 and 36 of each township (Sec. 4 of act)	22,903.84	
Indemnity selections (Sec. 4 of act)	6,520.00	
Reserves (Sec. 2 of act):		
Agency (a)	160.00	
Missionary (a)	198.62	
Land undisposed of on June 30, 1925	<u>160.00</u>	
		<u>417,244.62</u>

* * *

[#53]

(Excerpts from the Constitution of the Rosebud
Sioux Tribe)

PREAMBLE

* * *

Article I—Territory

The jurisdiction of the Rosebud Sioux Tribe of Indians shall extend to the territory within the original confines of the Rosebud Reservation boundaries as established by the act of March 2, 1889, and to such other lands as may hereafter be added thereto under any law of the United States, except as otherwise provided by law.

Article III—Governing Body

Section 1. The governing body of the Rosebud Sioux Tribe shall consist of a council known as the Rosebud Sioux Tribal Council.

Sec. 2. The council shall be elected for a term of two years, by secret ballot. Each community of the reservation, as follows, shall be entitled to representation on the tribal council, according to population, as hereinafter provided:

- | | |
|----------------|-------------------|
| 1. Antelope | 7. Grass Mountain |
| 2. Bad Nation | 8. He Dog |
| 3. Black Pipe | 9. Horse Creek |
| 4. Bull Creek | 10. Ideal |
| 5. Butte Creek | 11. Milk's Camp |
| 6. Corn Creek | |

- | | |
|-------------------|--------------------|
| 13. Parmelee | 18. Spring Creek |
| 14. Ring Thunder | 19. Swift Bear |
| 15. Rosebud | 20. Two Strike |
| 16. St. Francis | 21. Upper Cut Meat |
| 17. Soldier Creek | |

* * *

Sec. 4. Each recognized community shall elect representatives to the tribal council, in the proportion of one representative for each two hundred fifty (250) members or a remainder of more than one hundred twenty-five (125), provided that each recognized community shall be entitled to at least one representative.

Sec. 5. No person shall be a candidate for membership in the tribal or community council unless he shall be a resident member of the Rosebud Sioux Tribe and shall have been affiliated for a period of one year next preceding the election, with the community of his candidacy.

Sec. 6. Each community shall have power, by popular vote, to fill any vacancy which may occur in its representation on the tribal council.

* * *

Article VII—Adoption of Constitution and By-Laws

This constitution and by laws, when ratified by a majority of the qualified voters of the Rosebud Sioux Tribe voting at a special election called for the purpose by the Secretary of the Interior, provided that at least 30 percent of those entitled to vote shall vote in such election, shall be submitted to the Secretary of the

Interior, and, if approved, shall be effective from date of approval.

CERTIFICATION OF ADOPTION

Pursuant to an order, approved November 1, 1935, by the Secretary of the Interior, the attached constitution and by-laws were submitted for ratification to the members of the Rosebud Sioux Tribe of the Rosebud Reservation and were on November 23, 1935, duly approved by a vote of 992 for and 643 against, in an election in which over 30 percent of those entitled to vote cast their ballots, in accordance with section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), as amended by the Act of June 15, 1935 (Public, No. 147, 74th Cong.).

George Kills In Sight,
Chairman of Election Board.

George Whirlwind Soldier.
Vice Chairman of Rosebud Sioux Tribal Council.

Wallace A. Murray,
Secretary of Rosebud Sioux Tribal Council.

W. O. Roberts,
Superintendent.

I, Harold L. Ickes, the Secretary of the Interior of the United States of America, by virtue of the authority granted me by the act of June 18, 1934 (48 Stat. 984), as amended, do hereby approve the attached constitution and by-laws of the Rosebud Sioux Tribe.

All rules and regulations heretofore promulgated by the Interior Department or by the Office of Indian Affairs, so far as they may be incompatible with any of

the provisions of the said constitution and by-laws are hereby declared inapplicable to the Rosebud Sioux Tribe.

All officers and employees of the Interior Department are ordered to abide by the provisions of the said constitution and by-laws.

Approval recommended December 16, 1935.

John Collier,

Commissioner of Indian Affairs.

Harold L. Ickes,
Secretary of the Interior.
[SEAL]

Washington, D.C., December 20, 1935.

[#54]

(Memorandum dated April 6, 1972 from the Field Solicitor, Aberdeen, S.D. to the Area Director, Aberdeen, BIA)

Subject: Boundaries of the Rosebud Indian Reservation
The Superintendent, Rosebud Agency, by his memorandum dated February 23, 1972, to you, has requested a formal opinion from this office on what portions of the original Rosebud Indian Reservation remain, that is, what are the present boundaries of the Rosebud Indian Reservation.

The Rosebud Indian Reservation was carved or set apart from the Great Sioux Reservation and was originally established as a separate reservation by the Act of March 2, 1889, 25 Stat. 388. In Section 2, the boundaries are described:

[Here is quoted the description as set out in the 1889 Act]

* * *

Reference is made to the case of *United States v. Celestine*, 215 U.S. 278, 30 S.Ct. 93, which declared the legal principle that:

"... when Congress has once established a reservation, all tracts included within it remain a part of the reservation until separated therefrom by Congress."

Such legal principle was followed in the case of *Seymour v. Superintendent*, 368 U.S. 351, 82 S.Ct. 424, relative to the Colville Indian Reservation, and in the recent case of *City of New Town v. United States*,

454 F.2d 121 (January 17, 1972), relative to the Fort Berthold Indian Reservation. The latter case set forth three principles, viz., (1) when Congress has once established a reservation, all tracts included within it remain a part of the reservation until separated therefrom by Congress, (2) the purpose to abrogate treaty rights of Indians is not to be lightly imputed to Congress, and (3) the opening of an Indian reservation for settlement by homesteading is not inconsistent with its continued existence as a reservation. With these principles in mind, a review must be made of the Acts of Congress which may be asserted to have diminished such Reservation.

The first subsequent statute would be the Act of April 23, 1904, 33 Stat. 256, which ratified and amended an agreement between the Rosebud Sioux Tribe and the United States wherein,

"The said Indians... do hereby cede, surrender, grant, and convey to the United States all their claim, right, title, and interest in and to all that part of the Rosebud Indian Reservation now remaining unallotted, situated within the boundaries of Gregory County, South Dakota,..."

Significantly, Article V thereof reads as follows:

"It is understood that nothing in this agreement shall be construed to deprive the said Indian of the Rosebud Reservation, South Dakota, of any benefits to which they are entitled under existing treaties or agreements not inconsistent with the provisions of this agreement."

Other articles provided for disposition of the ceded land to settlers under the provisions of the homestead and townsite laws, the payment of the proceeds to the Indians, the conveyance of sections 16 and 36 to the

State, and for proclamation of the President in re settlement and entry. In Section 6 are the words:

"...it being the intention of this Act that the United States shall act as trustee for said Indians to dispose of said lands and to expend and pay over the proceeds received from the sale thereof only as received, as herein provided."

A careful reading of such Act reveals that there is no statement re the diminishment of the Rosebud Indian Reservation or that the ceded area would be made a part of the public domain. The operative words of such Act in Section 1 appear to relate to the conveyance of land interests remaining unallotted and the balance of the Act sets forth the payment of the proceeds for such conveyance and the assurance of treaty rights.

The second subsequent statute would be the Act of March 2, 1907, 34 Stat. 1230, which authorized the sale and disposition of the surplus and unallotted lands in the Rosebud Indian Reservation, as follows:

"That the Secretary of the Interior be, and he is hereby, authorized and directed as hereinafter provided to sell and dispose of all that portion of the Rosebud Indian Reservation in South Dakota lying south of the Big White River and east of range twenty-five west of the sixth principle meridian, except such portions thereof as have been, or may hereafter be, allotted to Indians: ...".

Such Act is quite similar to the 1904 Act as to settlement and entry, payment of proceeds, and proclamation of the President. Significantly, it is therein stated:

"...it being the intention of this Act that the United States shall act as trustee for said Indians to dispose of said lands and to expend and pay

over the proceeds received from the sale thereof only as received, as herein provided: Provided, That nothing in this Act shall be construed to deprive the said Indians of the Rosebud Reservation, in South Dakota, of any benefits to which they are entitled under existing treaties or agreements not inconsistent with the provisions of this Act."

Again, there is no statement re the diminishment of the Rosebud Indian Reservation or that the described area was made a part of the public domain. In Section 1, the operative words relate only to the sale and disposal of land and other sections set forth the details in re the price to be paid therefor, the payment of proceeds, and the grant of sections 16 and 36 to the State, and the assurance of treaty rights.

The third subsequent statute would be the Act of May 30, 1910, 36 Stat. 448, which authorized the sale and disposition of a portion of the surplus and unallotted lands in the Rosebud Indian Reservation, as follows:

"That the Secretary of the Interior be, and he is hereby, authorized and directed, as hereinafter provided, to sell and dispose of all that portion of the Rosebud Indian Reservation, in the State of South Dakota, lying and being within the counties of Mellette and Washabaugh, south of the White River, and ...", particularly described.

A casual reading of such Act might cause improper significance to be attached to the words "on the diminished reservation" appearing in the first proviso of Section 1 which secures to the Indians the right to receive "in lieu" allotments on the unceded portion of such Reservation. However, a careful reading would reveal the words "on said reservation" in the third proviso of Section 1, referring to land to be patented in

fee to the missionary board of a religious organization within the portion to be ceded, and in Section 2, the first proviso the statement: "Provided, That prior to said proclamation the allotments within the portion of the reservation to be disposed of as prescribed herein shall have been completed." In addition, in Section 4 appears a sentence: "The said commissioners shall then proceed to personally inspect, classify, and appraise, in one hundred and sixty acre tracts each, all of the remaining unallotted lands embraced within that portion of the reservation described in section one of this Act." Also by the second proviso in Section 4, all timber lands in such area were reserved for the Rosebud Indians.

Moreover, the final section of such Act declares:

"...it being the intention of this Act that the United States shall act as trustee for said Indians to dispose of the said lands, and to expend and pay over the proceeds received from the sale thereof only as received and as herein provided: Provided, That nothing in this Act shall be construed to deprive the said Indians of the Rosebud Indian Reservation of any benefits to which they are entitled under existing treaties or agreements not inconsistent with the provisions of this Act."

There is no specific statement in such Act that the Rosebud Indian Reservation was to be diminished or that the area described was to be made a part of the public domain. Again in such Act, as in the two previous Acts cited above, it appears that Congress intended to sell and dispose of surplus unallotted lands within reservation boundaries and covered necessary incidental matters such as sales price, grant of sections 16 and 36 to the State, and payment of proceeds to the Indians.

It should be noted that such Act was dated May 30, 1910, and that the Fort Berthold Act was dated June 1, 1910, 36 Stat. 455, which the Eighth Circuit Court of Appeals held it could find no clear intent by Congress to diminish that reservation. There are many similarities between such Acts, and nothing to indicate an intent that Congress intended either Reservation to be diminished or its boundaries changed. The Fort Berthold decision clearly indicates the intent of Congress at such time in history.

Subsequent Acts of Congress have been examined and as in *New Town v. United States*, several statutes made reference to lands in the "former" Rosebud Reservation, however, such Acts do not reveal an intention by Congress to diminish such Reservation, or change its boundaries, or declare that described territory should be added to the public domain.

The Solicitor's Opinion M-36802, dated March 13, 1970, construed the Act of June 1, 1910, 36 Stat. 455, and found no intent to diminish the boundaries of the Fort Berthold Reservation. Such opinion and its legal analysis of legal precedent therein cited are controlling here in view of Congressional intent expressed or absent from such Acts.

In my opinion, the three Acts of Congress cited above "...did no more than open the way for non-Indian settlers to own land on the reservation in a manner which the Federal Government, acting as guardian and trustee for the Indians, regarded as beneficial to the development of its wards..." as the court stated in *Seymour v. Superintendent*. Clearly revealing the intent of Congress, the title to the 1907 and 1910 Acts declared the purpose to be "To authorize the sale and disposition of a portion of the surplus and unallotted

lands . . .", and the provisions thereof set forth the necessary details at the same time reserving rights to the Indians to which they are entitled by treaty or agreement.

Accordingly, it is my opinion that pursuant to applicable legal principles, the legal boundaries of the Rosebud Indian Reservation have not been diminished or altered by Congress since the establishment of the original boundaries thereof by the Act of March 2, 1889, 25 Stat. 888, which are described above.

Wallace G. Dunker
Wallace G. Dunker
Field Solicitor

cc: Mr. Jess T. Town, Superintendent, Rosebud Agency,
Rosebud, South Dakota 57570

Mr. Richard Smith, Legal Services, P. O. Box 227,
Rosebud, South Dakota 57570

[#55]

(Letter dated August 23, 1974 from the Acting Area Director, Aberdeen, S.D. BIA to Neil Proto, Esquire, Department of Justice)

This is in response to your telephone request for a comprehensive report on the services which the Bureau of Indian Affairs provides to the Indian residents of Mellette, Tripp, Gregory, and Lyman Counties of the Rosebud Reservation.

We understand that your Department is interested in securing information which will establish the fact that the Bureau of Indian Affairs provides the same services for the Indian residents of Mellette, Tripp, Gregory, and Lyman Counties as it does for the Indians residing in Todd County. This Bureau, through the Rosebud Agency, has for many years considered the residents of the reservation to include those Indians who reside in the five counties within the exterior boundaries of the reservation as established by the Act of March 2, 1889. (25 Stat. 888)

Attached please note documents which provide information concerning the Indian population of the Rosebud Reservation. The Rosebud Sioux Tribe census which was accomplished by the Tribe reflects a total on-reservation population of 7,101 Indians. There is no attempt on the part of the Tribe to distinguish residence by county. The Bureau of Indian Affairs annually bases its appropriation requests upon the number of Indians residing on and near the reservation. The following indicates the number of Indians considered in the

appropriation requests for fiscal years 1969 through 1974:

Fiscal Year	On	Near
1969	6715	484
1970	6986	83
1971	7306	97
1972	7385	103
1973	7431	107
1974	7558	113

The 1970 United States Census reflects the following Indian residents of the five counties of the Rosebud Reservation:

Todd	4,600
Mellette	822
Gregory	318
Tripp	501
Lyman	<u>588</u>
Total	6,829

The Indian population as reflected in the Bureau of Indian Affairs Labor Force Report of March 1973 totals 7,538. We realize that the population figures noted above are not identical. However, they do indicate that the total Indian population of the Rosebud Reservation is considered in funding requests for Bureau of Indian Affairs services.

We have attached several other documents which indicate the Bureau services which are provided to Indian residents of the four counties in question. We regret that it is not possible to provide specific information on the number of Indians residing in the four county area

who receive Bureau services. The activity reports are, however, indicative of the services which are provided and we must emphasize that similar services are provided to the residents of Todd County.

The accompanying social services assistance report indicates the number of families and persons provided services but does not identify the kind of service provided. The Bureau of Indian Affairs through its social services program provides financial assistance to needy Indians residing on the reservation who are not recipients of assistance through other public welfare programs. In addition to the extension of financial assistance, the Bureau, through its social services program, provides child welfare services, related counseling services, burial assistance, and eligibility services for donated food commodities.

With regard to realty services described in the attachments, all services are extended to all counties where there are trust resources. The activity of land operations maintains conservationists and appraisers at Mission, South Dakota, who serve the entire reservation area.

To further clarify the services extended by the Bureau of Indian Affairs, the Milk's Camp community located in Gregory County near St. Charles and Bonesteel, South Dakota, is noted. This isolated community has received cluster-type housing which is located on trust land. The children of this community attend the Todd County School at Mission, South Dakota, or the school at Bonesteel, South Dakota. The Bonesteel Public School receives Johnson O'Malley funds for the Indian students. The Bureau of Indian Affairs Roads department maintains a bulldozer in the community to provide for some road work. The residents of the com-

munity have also requested that a resident policeman be stationed in their community.

The recent ruling by Judge Andrew Bogue which indicates that the State of South Dakota has jurisdiction over Indians residing in the four county area has made it necessary for our law enforcement services to be curtailed pending an outcome of the appeal. Prior to this decision the Bureau of Indian Affairs did attempt to provide law enforcement services to the four county area as it does in Todd County.

Information available to us through the Indian Health Service indicates that they hold outpatient clinics at Winner, South Dakota, in Tripp County, and at White River and Norris in Mellette County, for Indian residents of the area. Home visits are made to patients in the four-county area by Community Health Representatives and a mobile unit is being readied to serve in the distant reservation communities.

We trust that the above information and attached documents will be of assistance to you in this matter. Please be assured that the Bureau of Indian Affairs will continue to provide services to the Indian residents who reside within the exterior boundaries of the Reservation as established by the Act of March 2, 1889, unless the Bureau's authority to continue such services is curtailed by the Administration or by Congress.

Sincerely yours,

[Inelligible.]

Acting Area Director

Enclosures 18

[#56]

The following excerpts are from instruments found in the National Archives, Record Group N.75, Central Files, 1907-1921, Bureau of Indian Affairs (Note: "CIA" is Commissioner of Indian Affairs)

1. Report, June 1, 1908, Agent to CIA, p. 1—"Most of the month of May I spent on the Rosebud reservation visiting the Indians of the Butte Creek and Big White River districts ***." [Butte Creek and Big White River are in Mellette and Tripp counties respectively].***
 "There are a number of Indians on the Rosebud reservation and particularly in the Butte Creek district that have land under cultivation ***."
2. Letter, January 18, 1910, from CIA approving request to paint Black Pipe Day School in Mellette County.
3. Letter, May 26, 1910, Superintendent to CIA re "moving the Big White River Issue Station [Tripp County ****] to the center of the Big White River district [Tripp County]. " 'The Big White River issue station has heretofore been located in the extreme northeastern corner of the district, which is approximately 30 x 36 miles. *** It is desired to move the station about 20 miles to the southwest as soon as suitable reservation can be made. This will put the farmer very close to the geographical center of his district and within easy reach of all of his Indians.' "
4. Letter, January 12, 1911, CIA to Superintendent re Improvements at the "Big White River Day School" [Tripp County].
5. Telegram, December 15, 1911, CIA to Indian School granting authority for 20 windows at "Ponca

- Creek day school". [Gregory County]
6. Petition, April 1912, "Indian allottees of the Butte Creek District, Rosebud Reservation" for a doctor to be located "near the centre of our district" [Butte Creek, Mellette County]. A reference is made to the Agency physician [Todd County] "having all he can do on that part of the Reservation."
 7. Letter, June 15, 1912, CIA to Indian Mission granting permission "for the erection of a chapel on the Bull Creek Day School Reserve on the Rosebud Indian Reservation". [Tripp County]
 8. Petition, March 1913 by 55 Indians requesting CIA to "establish a boarding school in the Western end of this Rosebud Reservation, on the Black Pipe Issue Station Reserve." [Mellette County]
 9. Letter, March 11, 1913, from CIA, p. 1 in response to Item 8—re "petition asking that a boarding school be established at the western end of the Rosebud Reservation" in the Corn Creek District. [Mellette County]
 10. Letter, May 10, 1913, Superintendent to CIA, report on farming operations "relative to the way our Indians are supported at the present time on the reservation. *** I do not believe there was ever as much farming done on this Rosebud Reservation by the Indians, as was done last year." (p. 1) "I have instructed the Farmers in every District to drop everything for one whole month and to get out with the Indians ***." (p. 3) "We have as good farms in Gregory County, as any in South Dakota, and many of the Indians are this year, individually cultivating from three to four hundred acres, and are as good farmers as their white neighbors." (p. 4)

11. Voucher, September 11, 1913, for wells at Little White River, Pine Creek, Whirlwind Soldier and Black Pipe Day Schools, all in Mellette County.
12. Letter, September 23, 1914, CIA to Supervisor, concerning the "proposed transfer of the Big White River District to your reservation to the Lower Brule Jurisdiction". [Tripp County] Advising that funds will be provided for a "new issue station in the Big White River District with a view to administering the affairs of the Indians in that territory more efficiently." [Tripp County]
13. Letter, September 30, 1914, Supervisor to CIA re construction of a "barn for the Butte Creek farmer station". [Mellette County]
14. Voucher, December 8, 1914, for a well at "Little Crow Day School, Rosebud Reservation". [Mellette County]
15. Voucher, December 21, 1914, for a well at "Whirlwind Soldier Day School, Rosebud Reservation". [Mellette County]
16. Invoice, June 23, 1915, for construction of "Office and warehouse at the Ponca Indian Day School *** Gregory County."
17. Report, May 3, 1916, Supervising Superintendent to CIA re "visiting two of the day schools on the Rosebud reservation", naming "Bull Creek Day School" (p. 1) [Tripp County] and "Milks' Camp Day School" (p. 2) [Gregory County]
18. Letter, June 1, 1916, Supervisor to CIA re erection of school for the "new Butte Creek Day School Camp" [Mellette County].
19. Letter, June 29, 1916, Supervisor to CIA, re "Corn Creek Day School". [Mellette County] Reference is made to "Indian families living between this school and the Northern boundary of the Reservation"

referring to the northern boundary of Mellette County.

20. Report, June 30, 1916, Day School Inspector to Supervisor re "Whirlwind Soldier Day School" [Mellette County].
 21. Report, June 30, 1916, Supervisor to CIA re "White Thunder Day School" [Mellette County].
 22. Letter, September 18, 1919, CIA to Supervisor concerning removal of "old slaughter-house located about half a mile from the Ponca farm station ***" to the "Ponca farm station" [Gregory County].
 23. Letter, November 18, 1920, Superintendent to CIA, request for authority to remove "grandstand erected on the Ponca Creek substation grounds for the 4th of July celebration". [Gregory County]
 24. Letter, June 13, 1921, re payment of expenditures "by Boss Farmer at the Ponca Indian School in this [Gregory] County ***."
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